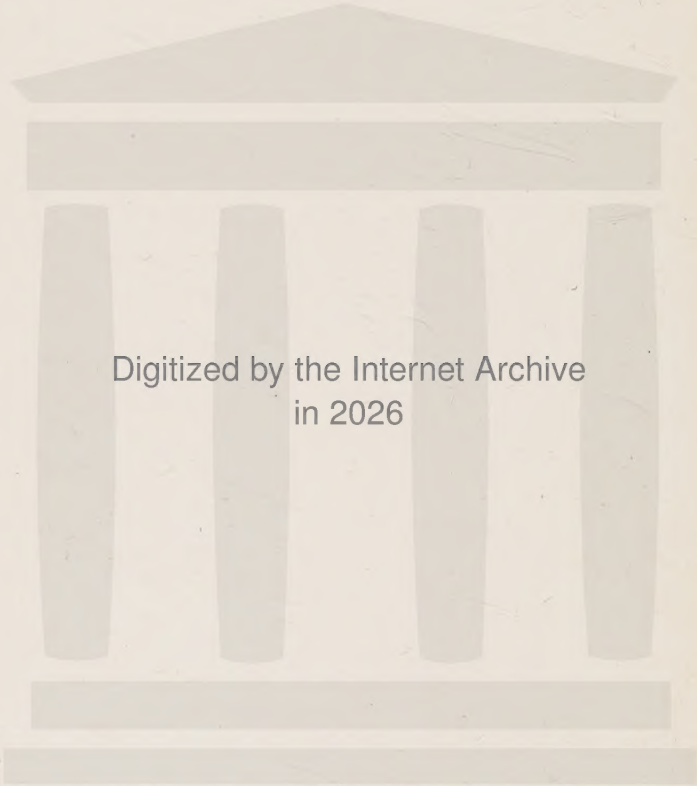

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LAWS

OF THE

STATE OF INDIANA

PASSED AT THE

SIXTY-FOURTH REGULAR SESSION

OF THE

GENERAL ASSEMBLY

BEGUN ON THE FIFTH DAY OF JANUARY, A. D. 1905

By Authority
DANIEL E. STORMS
Secretary of State

INDIANAPOLIS
WM. B. BURFORD, CONTRACTOR FOR STATE PRINTING AND BINDING
1905

LAWS OF INDIANA.

CHAPTER 1.

AN ACT to repeal an act entitled "An act providing for the engrossment and enrollment of bills by printing same from a specially designed type; authorizing the clerk of the state board of public printing to make application for patent thereon; authorizing the state board of public printing to take such steps as may be necessary to carry out the provisions of this act; making it unlawful to use such type except as herein specified; providing penalties for the violation of the provisions of this act; making an appropriation to defray the expenses thereof, and repealing all laws and parts of laws in conflict therewith," approved March 9, 1903, and declaring an emergency.

[S. 34. APPROVED JANUARY 13, 1905.]

Preamble.

WHEREAS, By the provisions of an act of the general assembly upon the subject of printing all engrossed and enrolled bills, originating in the senate and house of representatives of the State of Indiana, from a specially designed type, selected for that purpose by the state board of public printing; and

WHEREAS, Said law further provides that the clerk of the state board of public printing shall make application in his own name for a patent upon a specially designed type, approved by the said board, which patent, upon the granting thereof, shall be immediately assigned, transferred and conveyed to the State of Indiana, which law was approved March 9, 1903; and

WHEREAS, Said clerk of said board of public printing has not yet been able to secure said patent, and thereby secure the State of Indiana in the ownership thereof, and therefore, this general assembly is unable to comply with the terms of the same; therefore,

Printing Engrossed and Enrolled Bills—Repeal.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That an act entitled "An act providing for the engrossment and enrollment of bills by printing same from a specially designed type; authorizing the clerk of the state board of public printing to make application for patent thereon; authorizing the state board of public printing to take such steps as may be necessary to

carry out the provisions of this act; making it unlawful to use such type except as herein specified; providing penalties for the violation of the provisions of this act; making an appropriation to defray the expense thereof, and repealing all laws and parts of laws in conflict therewith," approved March 9, 1903, be and the same is now and hereby repealed.

Emergency.

SEC. 2. That an emergency exists for the immediate taking effect of this act; therefore, it shall be in force from and after its passage.

CHAPTER 2.

AN ACT to appropriate one hundred and fifteen thousand ($115,000) dollars to defray the expense of the sixty-fourth general assembly of the State of Indiana, and declaring an emergency.

[H. 71. APPROVED JANUARY 13, 1905.]

Appropriation—Expenses General Assembly.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That one hundred and fifteen thousand ($115,000) dollars be and the same is hereby appropriated to defray the expense of the sixty-fourth general assembly: *Provided,* That if any part of the amount thus appropriated shall remain after the expenses of the present general assembly have been paid, the amount so remaining shall be covered into the state treasury and shall revert at once into the general fund.

Members—Per Diem and Mileage.

SEC. 2. That it shall be the duty of the auditor of state to audit the accounts, and issue his warrant upon the treasurer of the state for the per diem and mileage of senators and representatives, as allowed by law, and also such additional allowances for any necessary traveling expenses incurred in the performance of duty, as may be provided by a joint resolution of the general assembly, upon the certificate, in case of the senators, of the president of the senate, and in the case of representatives, upon the certificate of the speaker of the house, setting forth the time served and the amount of mileage and allowance to which such senators and representatives may be entitled.

Officers and Employes—Per Diem and Mileage.

SEC. 3. That it shall be the duty of the auditor of state to audit the accounts and issue warrants upon the treasurer of state

for the per diem of officers of the senate and house of representatives, and their assistants and appointees, or other employes authorized by either house, including clerks and assistants to committees upon the certificate of the presiding officer of either house, setting forth the amount due such officers, their assistants or other appointees, and such clerks and assistants to committees. Where the pay of officers, clerks, assistants, or other employes is now fixed by law, they shall be paid accordingly. Where their pay is not fixed by law, but is limited by law, their pay shall not be in excess of such limit. In all other cases their pay shall be fixed by either or both houses of the general assembly.

Emergency.

SEC. 4. No appropriation having been made for the purpose herein set forth, it is hereby declared that an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force from and after its passage.

CHAPTER 3.

AN ACT fixing the time for holding court in the seventeenth judicial circuit of the State of Indiana and repealing all conflicting laws and declaring an emergency.

[S. 15. APPROVED FEBRUARY 3, 1905.]

Seventeenth Judicial Circuit—Terms.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That the terms of the circuit court in the seventeenth judicial circuit of the State of Indiana shall begin in the county of Wayne on the first Monday in January, the first Monday in April and the first Monday in October of each year; and each term shall continue as long as the business of said court may require: *Provided*, That the December term, 1904, of said court shall continue to the first Monday in April of 1905.

Repeal.

SEC. 2. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act, and the same shall therefore be in force from and after its passage.

Chapter 4.

AN ACT to amend section 5 of an act entitled "An act prescribing the duties of secretary of state," approved May 20, 1852, and declaring an emergency.

[S. 54. Approved February 11, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That section 5 of the above entitled act be amended to read as follows:

Acts—Preparation for Printer.

Section 5. He shall deliver to the state printer, at the earliest day practicable, copies of all acts, joint resolutions and memorials as they are passed by the general assembly, with proper marginal notes or section sub-heads to the general laws; prepare and deliver to said printer a properly digested index of said laws, joint resolutions and memorials; superintend the printing and binding of said laws and resolutions and deliver the proper number to the respective counties, as required by law.

Emergency.

Sec. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall take effect and be in force from and after its passage.

Chapter 5.

AN ACT providing an appeal without bond or stay of proceedings in convictions for felony in municipal courts.

[S. 6. Approved February 13, 1905.]

Felony—Appeal Without Bond—Municipal Courts.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That from all judgments of conviction of felony in any of the municipal courts of this state an appeal shall be granted to the circuit or criminal court of the county wherein such municipal court is situated without bond or stay of proceedings: *Provided*, That confinement of the defendant taking such appeal shall be in the county jail until the determination of such appeal: *And, provided further*, That such appeal must be prayed within three days: *And, provided further*, That the judge of such municipal court shall immediately file transcript showing such appeal and all papers and proceedings necessary as required by law concerning appeals in other criminal cases from such court without demanding or requiring in advance any payment whatever from such defendant.

Chapter 6.

AN ACT to amend section nine (9) of an act entitled "An act to better regulate and restrict the sale of intoxicating, spirituous, vinous and malt liquors, providing penalties for violation of the same, providing for the enforcement thereof and providing for remonstrance against the granting of license for the sale of the same, and conferring jurisdiction upon police courts and justices of the peace in cases of violation of the provisions of this act and other laws of the state on the subject of selling intoxicating liquors," approved March 11, 1895, the same being section 7283i of the Burns annotated statutes, revision 1901.

[S. 86. Approved February 15, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That section 9 of an act entitled "An act to better regulate and restrict the sale of intoxicating, spirituous, vinous and malt liquors, providing penalties for violation of the same, providing for the enforcement thereof, and providing for remonstrance against the granting of license for the sale of the same, and conferring jurisdiction upon police courts and justices of the peace in cases of violation of the provisions of this act and other laws of the state on the subject of selling intoxicating liquors," approved March 11, 1895, the same being section 7283i of Burns' annotated Indiana statutes, revision 1901, be and the same is hereby amended to read as follows:

Saloon—License—Remonstrance—Forms.

If three days before any regular session of the board of commissioners of any county, a remonstrance in writing, signed by a majority of the legal voters of any township, or ward in any city situated in said county, shall be filed with the auditor of the county against the granting of a license to any applicant or against such granting to all applicants for the sale of spirituous, vinous, malt or other intoxicating liquors, under the law of the State of Indiana with the privilege of allowing the same to be drunk on the premises where sold within the limits of said township, or city ward, it shall be unlawful thereafter for such board of commissioners to grant license to any such applicant therefor during the period of two years from the date of filing of such remonstrance; or if such remonstrance shall be against all applicants then it shall be unlawful for said commissioners to grant a license to any applicant therefor during a period of two years from the date of the filing of such remonstrance against all applicants; if any such license should be granted by said board during said period, the same shall be null and void, and the holder thereof shall be liable for any sales of

liquors made by him the same as if such sales were made without license, and such violator of the law shall be subject to arrest and punishment as if no license had been issued. The number to constitute a majority of the voters herein referred to shall be determined by the greatest aggregate vote cast in said township or ward for candidates for any office at the last election preceding the filing of such remonstrance. *Provided, however*, That any remonstrance which is not directed personally against an individual, but which is directed against all applicants, shall be separate and distinct, shall contain the name of no individual, but shall be directed to the board of county commissioners directly against the issuing of any such license to any person during the said two years. *And provided further*, That the following forms of remonstrance shall be sufficient under the foregoing provisions of this section, viz.:

(a) Form of remonstrance against a particular person:

State of Indiana, county of Kosciusko, ss.: To the honorable board of commissioners of said county:

We, the undersigned, legal voters in the township of Harrison (or third ward in the city of Warsaw) in said county and state, hereby respectfully represent that we are opposed to the granting of a license to John A. Brown, who has given notice of his intention to apply therefor, for the sale of intoxicating liquors in said township (or ward).

(b) Form of remonstrance against issuing any such license to any person:

State of Indiana, county of Grant, ss.: To the honorable board of commissioners of said county:

We, the undersigned, legal voters in the township of Harrison (or third ward in the city of Marion), in the county and state aforesaid, do hereby respectfully represent that we are opposed to the traffic in intoxicating liquors and we hereby object to the granting of a license to any person for the sale of intoxicating liquors in said township (or ward).

Chapter 7.

AN ACT to amend an act entitled an act to incorporate the New Harmony workingmen's institute for mutual instruction, approved February 15, 1839; to legalize the acts of the board of trustees of said institute and to repeal all laws in conflict therewith, particularly the amendatory act approved January 30, 1840; the amendatory act approved March 4, 1899, and the amendatory act approved March 9, 1901.

[H. 33. Approved February 14, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That section one of an act entitled "An act to incorporate

the New Harmony workingmen's institute for mutual instruction," approved February 15, 1839, be amended as follows:

New Harmony Workingmen's Institute, Etc.—Incorporation.

That John Cooper, Edward Cox, James Sampson, Samuel Bolton and Thomas Mumford and their associates and their successors in office are hereby constituted and appointed a body corporate and politic, and shall be known by the name of "The New Harmony workingmen's institute," and by that name shall have the power to sue and be sued, to adopt the constitution now existing and the same to alter and amend and to make and use a common seal, as given to corporations by the common law, to borrow money and secure the payment of the same by notes and mortgages, bonds or deeds of trust upon real and personal estate of such association; to purchase, rent, lease, hold, sell and convey real estate for the advancement of the objects of the association as hereinafter set out; to erect, buy, rent, lease and maintain suitable buildings for such purposes and for other objects properly connected therewith, to receive and accept donations of money, lands, goods, chattels and the like, either by gift or devise, and to hold, use, enjoy, mortgage, sell and convey the same for the benefit of such corporation, in the manner provided in the deed of the gift or in the devise by which the same is received. And said association shall have the power to make by-laws and to do and perform all other acts necessary to carry into effect the objects named herein.

Objects to be Promoted.

SEC. 2. That the objects to be promoted by "The New Harmony workingmen's institute" shall be the mutual instruction of its members and the promotion of useful knowledge by the aid of books, lectures and apparatus; the establishment of a library, art gallery, park, gymnasium, baths, auditorium, museum, industrial and art schools and like institutions for the use of the people of the town of New Harmony, Posey county, Indiana, and such inhabitants of said county as the by-laws may from time to time provide.

Acts Legalized.

SEC. 3. The acts of said institute and of its board of trustees done and performed are hereby legalized.

Repeal.

SEC. 4. That all laws and parts of laws in conflict with this act and particularly the amendatory statutes, approved January 30, 1840, and March 4, 1899 (see acts 1899, page 433), and March 9, 1901 (see acts 1901, page 287), are hereby repealed.

Emergency.

SEC. 5. An emergency is hereby declared for the immediate taking effect of this act and the same shall be in force as soon as the trustees of said "New Harmony workingmen's institute" shall cause it to be entered on the record book of said institute.

CHAPTER 8.

AN ACT to legalize the incorporation of the town of Greenville, Floyd county, Indiana; the election and qualification of its board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes and the proceedings of the board of trustees of said town; assessments and collection of taxes and other matters connected therewith, and declaring an emergency.

[H. 79. APPROVED FEBRUARY 15, 1905.]

Legalizing Act—Greenville.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all steps taken and acts done in the incorporation of the town of Greenville, Floyd county, Indiana, be and the same are hereby declared legal and valid, and all election of officers of said town of Greenville and all official acts, ordinances, resolutions, by-laws, minutes and proceedings of the board of trustees of said town, and all tax levies, orders and steps taken for the collection thereof for and within said town are hereby declared to be legal and valid.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

CHAPTER 9.

AN ACT prescribing certain duties of county recorders and providing penalties for failure to comply therewith.

[H. 30. APPROVED FEBRUARY 15, 1905.]

County Recorder—Duty as to Entry Book.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That it shall be the duty of every county recorder to enter upon the entry book of his office, at the time they are executed, all satisfactions, cancellations and assignments, of whatever

kind, when such satisfaction, cancellation or assignment is made upon the margin of any record in the county recorder's office, and such entry shall show the date of entry, name of the person or persons who executed the instrument so satisfied, cancelled or assigned, and the name, number and page of the record where such instrument is recorded.

Penalty.

SEC. 2. Any county recorder who shall fail to comply with the provisions of the foregoing section shall be liable to a penalty of five dollars for each violation of the said provision, to be recovered in a suit to be brought by the prosecuting attorney in any court in the state having jurisdiction in the county where such violation shall have been committed; and it shall be the duty of such prosecuting attorney to bring such suit upon duly verified information of such violation having occurred.

CHAPTER 10.

AN ACT to legalize the incorporation of the town of Nashville, in Brown county, in the state of Indiana, and to legalize the election and qualification of each and all of the officers and of the boards of trustees of said town, and to legalize each and all of the acts of said boards, and of each and all of said officers of said town, and to legalize and make valid each and all acts, by-laws, ordinances, rules, regulations, contracts and minutes adopted and made by said boards of trustees, and declaring an emergency.

[H. 132. APPROVED FEBRUARY 15, 1905.]

Legalizing Act—Nashville.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all steps taken and all acts done in the proceedings for the incorporation of the town of Nashville, in Brown county, in the State of Indiana, be and the same are hereby legalized and rendered valid, and the said town of Nashville is hereby declared to be legally incorporated, and that the election of each and all of the several boards of trustees, and all of the several officers of said town are hereby legalized and rendered valid; that each and all of the acts, by-laws, ordinances, resolutions, rules, regulations, contracts and minutes adopted and made by each and all of the several boards of trustees, and of each and all of the several officers of said towns acting as such, and in relation to the survey, platting and records thereof, determining the limits and boundaries of said town, and concerning all tax levies made and assessments and col-

lections of taxes, and for the raising and borrowing of money and issuing licenses in said town, and concerning the streets, alleys and sidewalks thereof, and of the grading, repairs and improvements of the same be and are hereby legalized and declared valid: *Provided, however,* That nothing in this act shall in any way affect any suit now pending in any of the courts of this state.

Emergency.

SEC. 2. An emergency is hereby declared to exist for the immediate taking effect of this act, therefore, the same shall be in full force and effect from and after its passage.

CHAPTER 11.

AN ACT to legalize certain sales of real estate made by county auditors of lands bought in by such auditors on account of the school funds, and declaring an emergency.

[H. 72. APPROVED FEBRUARY 15, 1905.]

Legalizing Act—Land Sales by County Auditors.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in all cases where a school fund mortgage on land has been foreclosed upon default of payment of interest or principal, in any court of competent jurisdiction, and such land was sold at sheriff's sale and such land was bid in at such sale by the county auditor on account of the school fund, and for which land a sheriff's deed was issued to such county auditor on behalf of the school fund, and where such land was afterwards sold by the county auditor of such county at public sale for cash for the full appraised value thereof, after notice of such sale had been given by said auditor, that said sale for cash be and the same is hereby legalized and made valid, and that the deed executed by said auditor shall be as effectual to pass title to the purchaser in as full and complete a manner as if said sale had been made at private sale, and in the manner prescribed by law for sales by auditors after lands have been bid in by the auditor on account of the fund for want of bidders at public sale: *Provided,* That nothing in this act shall in any way affect the title to lands involved in any litigation now pending in any court in the State of Indiana, but the same shall be prosecuted the same as if this act had not been passed.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

Chapter 12.

AN ACT fixing the time of holding courts in the third judicial circuit of Indiana, prescribing the length of terms thereof, providing for the return of process therein, repealing all laws in conflict therewith.

[H. 25. Approved February 15, 1905.]

Third Judicial Circuit—Terms—Place.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That the courts of the third judicial circuit of Indiana shall be held as follows: In the county of Harrison the court shall convene on the second Monday in February, first Monday in May, second Monday in September and third Monday in November of each year and shall continue three weeks at each term, if the business of the court requires. In the county of Crawford the court shall convene on the second Monday in March, fourth Monday in May, second Monday in October and the second Monday in December of each year and shall continue two weeks at each term, if the business of the court requires. In the county of Perry the court shall convene on the second Monday in January, April and June and the fourth Monday in October of each year and continue three weeks at each term, if the business of the court so requires.

Writs Returnable.

Sec. 2. All parties, witnesses, jurors and other persons interested shall take notice of this act, and all writs, subpoenas, venires, rules, orders of court, recognizances, publications and processes hereafter made or issued, or which may be made or issued hereafter, having reference to or returnable at the next terms of said courts shall be deemed and taken as having reference to and being returnable at the next terms of said courts, to be held as provided in this act.

Repeal.

Sec. 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Chapter 13.

AN ACT to amend section one (1) of an act entitled "An act to legalize the title of real estate in counties wherein defects in the chain of title appears by reason of the destruction of the deed records of such counties by fire prior to the year 1870, and declaring an emergency," approved March 9, 1903.

[H. 89. Approved February 15, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That section one (1) of an act entitled "An act to legalize

the title of real estate in counties wherein defects in the chain of title appears by reason of the destruction of the deed records of such counties by fire prior to the year 1870, and declaring an emergency," approved March 9, 1903, be and the same is hereby amended to read as follows:

Records Destroyed by Fire—Deeds Valid.

Section 1. That in all cases where there shall exist a defect in the title to any of the lands in any county in the State of Indiana, which defects of title are due to the destruction of the deed records of such counties by fire, which fire occurred prior to the year A. D. 1875, the title to such lands is hereby made valid in the owner thereof as against any defects in the title thereto resulting from the destruction of the deed records of such counties as aforesaid: *Provided*, That this act shall in no wise affect the title in any such lands, the defects in which title shall not be due to the destruction of the records as aforesaid: *Provided*, That nothing in this act shall in any way interfere with any litigation now pending in any of the courts of this state.

Chapter 14.

AN ACT to legalize the incorporation of the town of Lapel, Madison county, Indiana, the election and qualification of its board of trustees and other officers, and to legalize each and all of the acts of said board, and of each and all of said officers of said town, and to legalize and make valid each and all acts, orders, ordinances, resolutions, street and sidewalk assessments, by-laws, contracts, minutes and the proceedings of the board of trustees of said town, assessments and the collections of taxes and other matters connected therewith, and declaring an emergency.

[S. 14. Approved February 17, 1905.]

Legalizing Act—Lapel.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That all steps taken and acts done in the incorporation of the town of Lapel, Madison county, Indiana, be and the same are hereby declared to be legal and valid, and that the election of the board of trustees and all of the several officers of said town are hereby legalized and rendered valid; that each and all of the acts, orders, ordinances, resolutions, street and sidewalk assessments, by-laws, contracts, minutes and the proceedings of the board of trustees, and of each and all of the several officers of said town acting as such and in relation to the records thereof and concerning all tax levies made and assessments and collection of

taxes and license in said town; and concerning the streets and alleys and sidewalks thereof, and of the grading, repairs and improvements of the same be and are hereby declared to be legal and valid: *Provided, however,* That nothing in this act shall in any way affect any suit now pending in any of the courts of this state. *Be it further provided,* That nothing in this act shall in any way affect any acts, resolutions, ordinances or contracts of said board of trustees of said town not already completed, and not already executed.

Emergency.

SEC. 2. Whereas, an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

CHAPTER 15.

AN ACT concerning the payment of taxes assessed upon omitted property and providing the manner in which the costs of collecting same shall be paid, and declaring an emergency.

[S. 47. APPROVED FEBRUARY 17, 1905.]

Taxation—Omitted Property—Costs of Collecting.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That where boards of county commissioners in this state have made or may hereafter make contracts for the discovery of, and report for assessment and taxation, omitted property and cause the taxes to be collected upon the same, there shall be deducted from the gross amount of said taxes so collected the total cost and expense of such investigation and collection and the remainder shall be distributed pro rata among all the funds entitled to receive the same: *Provided,* That the provisions of this act shall not be construed for the purpose of affecting any settlement heretofore made between the auditor of state and the county treasurers of the state.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act the same shall be in full force and effect from and after its passage.

Chapter 16.

AN ACT to amend the first section of an act to enable counties to receive donations of buildings and grounds for high school purposes, and to provide for the maintenance of the same, and to declare an emergency, in force March 11, 1889.

[S. 71. Approved February 17, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That the first section of an act to enable counties to receive donations of buildings and grounds for high school purposes and to provide for the maintenance of the same, and to declare an emergency, in force March 11, 1889, be and the same is hereby amended to read as follows:

County Commissioners—Donations for High Schools.

That whenever any person, or persons, shall donate to any county of the state, any building, or buildings, together with the necessary grounds, of the value of not less than $20,000, in counties having a population of 25,000 and less, and in counties having a population in excess of 25,000, $30,000, for the purpose of maintaining a county high school therein, it shall be the duty of the board of county commissioners of such county to accept such donation for the purpose herein named.

Chapter 17.

AN ACT to amend secton two of an act entitled "A bill to amend an act making it unlawful to give, barter or sell tobacco to certain children or to others for their use, or to induce said children to use the same, and providing penalties for violation thereof," approved February 9, 1893, and declaring an emergency.

[S. 85. Approved February 17, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That section two of the above entitled act, being section 2185a of Burns' annotated Indiana statutes, revision of 1901, be and the same is hereby amended to read as follows, to wit:

Tobacco—Furnishing to Children—Penalty.

Any person who violates the provisions of this act shall be deemed guilty of a misdemeanor and, on conviction thereof, shall

be fined in any sum not less than ten dollars nor more than one hundred dollars, and to which may be added imprisonment in the county jail not more than thirty days nor less than ten days.

Emergency

SEC. 2. That, whereas an emergency exists for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

CHAPTER 18.

AN ACT for the relief of the Indiana state board of agriculture, authorizing it to borrow money to pay off its existing indebtedness and for other purposes, and to repeal so much of an act concerning the state board of agriculture, approved April 14, 1881, as is now in force, being sections 2796, 2797 and 2798 in Burns' annotated Indiana statutes of the revision of 1901, and other matters properly connected therewith; and providing for an emergency.

[S. 114. APPROVED FEBRUARY 17, 1905.]

Preamble.

WHEREAS, The Indiana state board of agriculture is indebted in the sum of about forty-five thousand dollars ($45,000.00) for unpaid purchase money on a part of its lands, known as the state fair grounds, near to Indianapolis, in Marion county, Indiana, which sum it is unable to pay at the present time; and also needs and will need from time to time further sums to be used in erecting and maintaining necessary buildings and making other and permanent improvements from time to time, so as to enable it at all times to fully perform and discharge its duties under the law; and

WHEREAS, The indebtedness described in said act of April 14, 1881, published in the acts of said year at page 84, have each and all been long since fully paid and satisfied; now, therefore,

Indiana State Board of Agriculture—May Borrow Money—Uses.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That the Indiana state board of agriculture be and is hereby authorized and empowered to borrow money at such times and in such amounts as may be necessary for the payment of the existing indebtedness now outstanding for a part of the real property of the said state board of agriculture, known as the state fair grounds, near Indianapolis, Marion county, Indiana; and other sums from time to time for the purposes of erecting and maintaining proper and necessary buildings and improvements to enable it at all times to carry out, perform and discharge its duties in giving

state fairs and other purposes; and for the security and repayment of such loans, with interest, to mortgage its said real property, consisting of about two hundred and fourteen (214) acres, situate near to the city of Indianapolis, Marion county, Indiana, and commonly known as the state fair grounds, together with the improvements now and hereafter placed thereon. And the said board is authorized and empowered to apply the moneys borrowed to the payment of a certain note executed to Columbia national bank in part payment of the purchase price of said two hundred and fourteen (214) acres of land, and also of an existing mortgage on a part of said fair grounds and premises made to Mrs. Theresa H. Smith; and to take up said indebtedness by whomsoever held and to cancel all the notes, mortgages and obligations so outstanding; and to use the remainder of any sum so borrowed, and other sums hereafter borrowed from time to time, in erecting new buildings on said fair grounds and in making and maintaining improvements and repairs. But the aggregate indebtedness occasioned by such loans shall not exceed the sum of eighty thousand dollars ($80,000.00) at any one time. And the rate of interest shall not exceed six (6) per centum per annum.

Evidence of Indebtedness—How Authorized.

SEC. 2. Any and all notes, bonds or mortgages given, issued or executed by said Indiana state board of agriculture shall be authorized by a majority of said board in session and signed by its president and secretary and attested by its corporate seal.

Power to Mortgage Property—Bonds.

SEC. 3. The said board shall have power from time to time to mortgage all or so much and such parts of said described Indiana state fair grounds as its board of directors may determine in manner and form as described in section 1. To secure such loans and if deemed best by such board, then the Indiana state board of agriculture is hereby given power and authority under this act to issue bonds as well as notes in making any loan or loans in such denominations and amounts as the said board may from time to time determine, with interest coupons attached in the usual manner; such notes and bonds to be made payable at such times and on such terms and conditions as may to the board seem best; and to secure such bonds as well as notes by a mortgage or mortgages upon all or any part of said lands. Any and all notes and bonds so authorized bearing such rates of interest as may be determined not exceeding six (6) per cent. per annum and secured as aforesaid, the board may sell from time to time at such prices as the majority of the members of said board may authorize and direct at not less than par.

Security of Bonds.

SEC. 4. In case bonds are issued in series or otherwise from time to time and secured as aforesaid, no bond shall have any priority by reason of the time or order of sale over any other bonds of the series secured by any such mortgage; but each bond secured by any mortgage shall be secured equally and ratably by such security.

Repeal.

SEC. 5. It is further enacted that "An act for the relief of the state board of agriculture, appropriating certain moneys for the use and benefit of said board and postponing the lien of the State of Indiana on certain lands therein named, and prohibiting said board from further encumbering their property, approved April 14, 1881," (Acts of 1881, page 84) and set forth in part as sections 2796, 2797 and 2798 of Burns' annotated Indiana statutes in the revision of 1901, and all other laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 6. Whereas an emergency exists for the immediate taking effect of this act, therefore it shall be in force from and after its passage.

CHAPTER 19.

AN ACT to legalize the incorporation of the town of Upland, Grant county, Indiana, the election and qualification of its board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes and proceedings of the board of trustees of said town, assessment and collection of taxes, and other matters connected therewith, and declaring an emergency.

[S. 121. APPROVED FEBRUARY 17, 1905.]

Legalizing Act—Upland.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all steps taken, and all acts done in the proceedings of the incorporation of the town of Upland, in Grant county, in the State of Indiana, be and the same are hereby legalized and rendered valid, and said town of Upland is hereby declared to be legally incorporated, and that the election of the board of trustees and all other officers of said town are hereby legalized and rendered valid, that each and all of the acts, by-laws, ordinances, resolutions, rules, contracts and minutes adopted by said board of trustees, and of each and all of the several officers of said town acting as such, and in relation to the survey, platting and recording thereof, determining the limits and boundaries of said town, and concerning all

tax levies made, collection of taxes, and for the raising and borrowing of money and licenses in said town, and concerning the streets, alleys and sidewalks, the grading, repairing and improving of the same, be and the same are hereby legalized and declared valid: Provided, That nothing in this act shall in any way affect any suit now pending in any of the courts of this state.

Emergency.

SEC. 2. An emergency is hereby declared to exist for the immediate taking effect of this act, therefore the same shall be in force and effect from and after its passage.

CHAPTER 20.

AN ACT providing for the deposit of cash or certified check in lieu of bond in civil, criminal or probate proceedings.

[S. 137. APPROVED FEBRUARY 17, 1905.]

Courts—Bonds—Cash or Certified Checks.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever any bond is required by law to be filed in any civil, criminal or probate proceedings, whether in a circuit or superior court, or before a justice of the peace, or mayor, or any city court of a city, a deposit of cash or a properly certified check or draft for the full amount of such bond with the officer with whom such bond is required to be filed may be accepted in lieu thereof. This act shall not be construed as mandatory on any court or officer, but as conferring a privilege, which may be exercised for the convenience of litigants.

CHAPTER 21.

AN ACT to legalize the incorporation of the town of Shirley, Hancock and Henry counties, State of Indiana, and to legalize and render valid the election, qualification and official acts of each and all the officers of said town, including the present officers thereof, and to legalize and render valid all by-laws, ordinances, resolutions, tax levies, street and sewer assessments, contracts and other official acts heretofore entered into in good faith by the several boards of trustees of said town, including the present board of trustees of said town, and declaring an emergency.

[H. 109. APPROVED FEBRUARY 20, 1905.]

Legalizing Act—Shirley.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all the proceedings taken and had for the incorporation of the town of Shirley, Hancock and Henry counties,

State of Indiana, and all acts done pursuant to such proceedings be and the same are hereby legalized and rendered valid, and the said town of Shirley, Hancock and Henry counties, State of Indiana, is hereby declared to be legally and regularly incorporated, and that the election, qualification and all official acts of each and all of the several officers of said town, including each and all of the present officers of said town, are hereby legalized and rendered valid, and that all by-laws, ordinances, resolutions, tax levies, street and sewer assessments, contracts and all other official acts heretofore passed, enacted, made, assessed or entered into in good faith by the several boards of trustees of said town be and the same are hereby legalized and rendered valid: *Provided, however*, That this act shall not in any way affect the rights or interests of any person or corporation involved in any suit or litigation now pending in any court of the State of Indiana or of the United States, but nothing in this act shall affect pending litigation.

CHAPTER 22.

AN ACT to legalize the incorporation of the town of Griffin, Posey county, Indiana, the election and qualification of the board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes, and the proceedings of the board of trustees of said town, assessments and collection of taxes and other matters connected therewith, and declaring an emergency.

[H. 191. APPROVED FEBRUARY 20, 1905.]

Legalizing Act—Griffin.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all steps taken and acts done in the incorporation of the town of Griffin, Posey county, Indiana, be and the same are hereby declared to be legal and valid, and all elections of officers of said town of Griffin, and all official acts, ordinances, resolutions, by-laws, minutes, and proceedings of the board of trustees of said town, and all tax levies, orders and steps taken for the collection thereof for and within said town are hereby declared to be legal and valid.

Emergency.

SEC. 2. Whereas, an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

Chapter 23.

AN ACT to legalize the incorporation of the town of Riverside City, Delaware county, State of Indiana, the election and qualification of its board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes and proceedings of the board of trustees of said town, assessment and collection of taxes, and other matters connected therewith.

[H. 218. Approved February 20, 1905.]

Legalizing Act—Riverside City.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That all steps taken, and all acts done in the proceedings for the incorporation of the town of Riverside City, in Delaware county, in the State of Indiana, be and the same are hereby legalized and rendered valid, and the said town of Riverside City is hereby declared to be legally incorporated and that the election of the board of trustees, and all other officers of said town are hereby legalized and rendered valid; that each and all the acts, by-laws, ordinances, resolutions, rules, contracts and minutes adopted and made by said board of trustees, and of each and all of the several officers of the said town acting as such, and concerning all tax levies made, collections of taxes, and for the raising and borrowing of money and licenses in said town, and concerning the streets, alleys and sidewalks, the grading, repairing and improving of the same, be and the same are hereby legalized and declared valid: *Provided, however*, That nothing in this act shall in any way affect any suit now pending in any of the courts of this state.

Chapter 24.

AN ACT to legalize the incorporation of the town of Fulton, in the county of Fulton, in the State of Indiana, the election and qualifications of its board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes, and the proceedings of the board of trustees of said town, the assessment and collection of taxes and other matters connected therewith, and declaring an emergency.

[H. 278. Approved February 21, 1905.]

Legalizing Act—Fulton.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That all steps taken and all acts done in the proceedings for the incorporation of the town of Fulton, in Fulton county, in the State of Indiana, be and the same are hereby legalized and rendered valid. And the said town board of Fulton is hereby de-

clared to be legally incorporated, and that the election of the board of trustees and all of the several officers of said town are hereby legalized and rendered valid; that each and all the acts, by-laws, ordinances, resolutions, rules, regulations, contracts, and minutes adopted and made by said board of trustees, and of each and all of the several officers of said town, acting as such in relation to the survey, platting and records thereof, determining the limits and boundaries of said town; and concerning all tax levies made and assessments and collections of taxes, and for the raising and borrowing of money, and licenses in said town, and concerning the streets and alleys and sidewalks thereof, and of the grading, repairs and improvements of the same; be and the same are hereby legalized and declared valid: *Provided, however*, That nothing in this act shall in any way effect [affect] any suit now pending in any court of this state.

Emergency.

SEC. 2. An emergency is hereby declared to exist for the immediate taking effect of this act, therefore the same shall be in force and effect from and after its passage.

CHAPTER 25.

AN ACT entitled an act empowering common councils of cities to convey cemeteries, and providing for the management and control thereof, and declaring an emergency.

[S. 7. APPROVED FEBRUARY 21, 1095.]

Cemeteries—When Common Council May Convey.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That whenever ten or more residents of any city of this state, being heads of families, whose dead are buried in any cemetery, the title to which is vested in said city, shall either themselves or in company with others become organized as a corporation for the burial of the dead and the maintenance of a cemetery, such persons may file with the common council of such city their petition, praying for the conveyance of such cemetery to such corporation, giving at least three weeks' notice thereof by publication in some newspaper published in said city, and agreeing in such petition that such corporation will keep such cemetery in good order and honestly and faithfully manage the same; and such common council, if satisfied that such petition is signed by a majority of the owners of lots in such cemetery who are residents of said city, and if satisfied of the good faith of such petitioners, and as to the propriety of granting such request, may convey the land occupied by such cemetery to such cemetery association.

Power of Cemetery Association.

SEC. 2. Such cemetery association shall thereafter hold and control such cemetery, ornament, beautify and improve the same, and may purchase additions thereto and sell lots therein, and assess all lots therein for the care, improvement, maintenance and beautifying of such cemetery, and may receive and hold in trust gifts, donations and legacies to be devoted to such purposes, and for such end shall have all the powers and authority heretofore by law vested in any association organized under any statute of this state for the purpose of managing and maintaining cemeteries.

Emergency.

SEC. 3. Whereas, an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

CHAPTER 26.

AN ACT concerning replevin suits before justices of the peace and mayors.

[S. 87. APPROVED FEBRUARY 21, 1905.]

Replevin Before Justice or Mayor.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That an action in replevin for the recovery of personal property may be maintained before a justice of the peace or mayor of a city without filing a replevin bond, by filing a complaint containing the allegations now required by law for a complaint in replevin suit before a justice of the peace, but in such action the defendant shall retain the possession of said property until judgment is rendered against him. If the judgment is for the plaintiff, the value of the property and damages for wrongful detention, if any, shall be found, and judgment shall be rendered for the possession of the property with damages for the unlawful detention thereof, and that on failure of defendant to surrender possession to plaintiff, plaintiff shall have judgment for the full value of said property without right of exemption. A writ shall at once be issued on such judgment directed to the constable or proper officer and ordering him to at once take possession of said property and deliver the same to plaintiff, and collect as upon execution the amount of the damages and cost adjudged in said cause against the defendant, and if said personal property can not be found, that the value thereof be collected on said writ as upon an execution without the benefit of exemption laws: *Provided*, That nothing in this act shall be construed as repealing any laws now in force.

Chapter 27.

AN ACT to exempt from taxation the mortgages, notes and bonds hereafter issued by the Indiana state board of agriculture.

[S. 115. Approved February 21, 1905.]

Preamble.

Whereas, The Indiana state board of agriculture exists for the benefit of the people of the state, in the property of which corporation there is no private or individual interest, but the same is held entirely for the public purpose of promoting agriculture, and

Whereas, The said Indiana state board of agriculture finds it necessary to borrow money to pay off and discharge an existing debt on the state fair grounds, and to make needed improvements on said grounds to enable said board to better fulfill its duties, and

Whereas, It is beneficial to the state and people that the board shall procure said loan at the lowest possible rate of interest, and in order to do so it is necessary to exempt the notes, bonds, mortgages and other evidences of the same from taxation, and

Whereas, The property of said board is not subject to taxation under the constitution and laws of the State of Indiana, and its securities issued thereon for the benefit of the people of the state as aforesaid should likewise not be taxable, therefore

Indiana Board of Agriculture—Tax Exemption.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That any and all mortgages, notes, bonds and evidences of indebtedness hereafter issued by the Indiana state board of agriculture and secured by mortgage upon its property, known as the state fair grounds in Marion county and near to the city of Indianapolis, Indiana, or otherwise, shall not be listed or assessed, but shall be exempt from taxation in this state.

Chapter 28.

AN ACT in regard to the loaning of school funds and declaring an emergency.

[S. 124. Approved February 21, 1905.]

School Funds—Expense in Making Loans.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That the county commissioners of any county in the state may, at their discretion, at any regular meeting of their own board, order that their county shall bear any or all the expense of

appraisers, abstract of title and recording mortgage in making any or all loans of school funds. Thereafter, so long as such order is in effect, the county auditor shall meet the expenses covered by it in the same manner that he does other expenses incurred by the county: *Provided*, That such expense shall not exceed one per cent. of such loan, but such expense shall not be paid unless loan be made.

Repeal of Order.

SEC. 2. At any subsequent regular meeting of said board the commissioners may, at their discretion, repeal any part or all of such order or orders.

Appropriations—County Council.

SEC. 3. When such orders shall exist the county council shall take them into consideration in making their regular appropriations.

Repeal.

SEC. 4. Any laws or parts of laws in conflict herewith shall be hereby repealed.

Emergency.

SEC. 5. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

CHAPTER 29.

AN ACT entitled an act providing for the location and erection of an additional hospital for the insane and providing for the management and maintenance thereof.

[S. 147. APPROVED FEBRUARY 21, 1905.]

Southeastern Hospital for Insane—Commission—Appointment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That the governor shall, within sixty days after the taking effect of this act, appoint four commissioners not more than two of whom shall belong to the same political party, who, together with the governor, who shall be ex-officio a member, are hereby constituted a board of commissioners to procure the location, employ an architect and superintend the preparation of the plans and specifications, and the letting of the contract for the erection, completion, furnishing and equipment of a hospital for the insane, which hospital shall be designated and called the South-

eastern hospital for the insane, and shall be located and erected within one of the counties named in section 8 of this bill. Such commissioners, except the governor, shall hold their office for a period of three years from the date of their appointment and until their successors are appointed and qualified, unless sooner released by order of the governor. Before entering upon the discharge of their duties such commissioners, other than the governor, shall take and subscribe an oath to uphold the constitution of the United States, the constitution and laws of the State of Indiana, and to faithfully perform their duties, and each such commissioner, other than the governor, shall execute a bond, with surety to the approval of the governor, and in such sum as the governor may require, payable to the State of Indiana, and conditioned for the faithful performance of his duties as such officer under the law and for the due and faithful accounting for all moneys that may come into his hands belonging to the state.

Duties of Commissioners.

SEC. 2. It shall be the duty of such board of commissioners, after careful examination, to select and purchase, without delay, a suitable tract of real estate, not exceeding three hundred and sixty (360) acres, whereon to erect the necessary buildings for such hospital, such tract of real estate having ample water supply, facilities for drainage and sewerage, being in a healthful location and having ample and convenient railroad facilities; such board of commissioners shall procure a good and sufficient warranty deed for such real estate, conveying to the State of Indiana an indefeasible fee simple title to such real estate. They shall require the seller or sellers of such real estate to furnish a complete abstract of title to such real estate, showing perfect chain of title from the United States to such seller or sellers, and such abstract or abstracts shall be submitted to the attorney-general for his opinion as to the validity of such title, and no title shall be deemed sufficient until approved by the attorney-general, and his approval endorsed upon such abstract or abstracts. Such board of commissioners shall have power to sell or otherwise dispose of or utilize any building or other structure that may be upon such real estate at the time of its purchase, and shall further have power to buy, lease or otherwise acquire any additional real estate or right of way for the purpose of constructing, operating and maintaining sewerage, water, light, heat or power plant or appliances for such hospital, and shall not accept on behalf of the state donations of land, money or valuable concessions of any character. The board of commissioners shall, after selecting and acquiring the necessary real estate for the site of said hospital, cause plans and specifications to be prepared for any and all parts of the work contemplated

by this act, including offices, buildings, and such other structures as may, from time to time, be deemed necessary to the complete establishment and equipment of such hospital for the care, treatment and safe keeping of patients, according to modern, advanced and practical methods, said hospital being constructed upon what is commonly known as the "cottage plan." When any such plans and specifications have been completed and approved by the board of commissioners, they shall be filed in and remain in the office of the governor for public inspection, and the said board shall thereupon advertise for sealed proposals for the construction of all or any part of the work contemplated by this act, for such length of time, and in such manner, as it may deem best, and it may, in its discretion, reject any or all bids, and, when necessary, shall have power to readvertise as often as it may deem necessary.

Bids—Award—Contract—Bond.

SEC. 3. At the time and place specified in the published notice for opening and examination of bids the board of commissioners shall inspect all bids, made in conformity with the regulations theretofore adopted and advertised, and shall, as soon as practicable, award the contract or contracts to the lowest responsible bidder or bidders, or reject such bid or bids as they may deem for the best interests of the state. Bids may be invited and contracts awarded for such part or subdivision of the work contemplated by this act, as the board of commissioners may deem proper, or for the whole work in their discretion. All bidders for any such work shall file in the office of the governor written sealed proposals, accompanied by a certified check in an amount to be fixed by the board of commissioners, payable to the state of Indiana, and an agreement conditioned for the entering into a sufficient written contract for the performance thereof in case a contract be awarded upon such bid. Any and all bidders to whom a contract shall be awarded shall at the time of entering into such contract execute a good and sufficient bond, payable to the State of Indiana, in a penalty equal to the contract price, with surety to the approval of said board of commissioners, and conditioned for the faithful performance of all of the provisions of said contract, as prescribed by said board of commissioners and according to the plans and specifications, and providing for complete indemnity to the state on account of liens of every character growing out of the performance of said contract, and indemnifying the state fully and completely against all loss and damages in any manner growing out of or connected with the performance of such contract. All contracts and bonds shall be filed and kept in the office of the governor. All contracts entered into shall be in writing and shall fully, explicitly and in detail cover all work to be performed not

completely covered by the plans and specifications, which shall be incorporated in all such contracts, either bodily or by reference.

Statement by Commissioners—Oath.

SEC. 4. When the work is so let, the board of commissioners aforesaid shall make out a written statement, under oath, setting forth the number of bids presented, the name of each bidder, the nature and amount of his bid, and the action of said board thereon, and shall state that neither of said commissioners has received any bonus or gratuity of any nature or kind, or the promise thereof, in connection with or having reference to said lettings, or said contract or contracts, and that they are not in any way interested in the proposal received or the contract made, and such statement, with the proposal or bids, shall be filed with and kept by the secretary of state.

Superintendent of Construction—Estimates—Warrants.

SEC. 5. A competent and skilled superintendent of construction shall be selected by such board of commissioners, who shall remain on the hospital grounds and oversee and superintend the erection of said buildings and other work to be performed, and see that all work is well and faithfully done according to contract, and shall make monthly estimates of the work done under oath, which estimates, when endorsed by the architect and approved by said board of commissioners, in such manner as they may prescribe, shall be filed with the auditor of state, who shall thereupon draw his warrant upon the treasurer of state, payable to the person entitled thereto, for the amount of such estimate, less ten per centum thereon, which amount of ten per centum shall remain unpaid until the work is fully completed and accepted by said board of commissioners, when the auditor shall draw his warrant therefor. The board shall have power to suspend or remove such superintendent of construction and appoint a successor at any time. And such superintendent of construction shall execute a bond payable to the State of Indiana, with surety to the approval of said board and in such penalty as it may prescribe, conditioned upon the faithful discharge of his duties, and for indemnifying the state against any and all loss that may be occasioned it by his neglect, acts or conduct.

Contracts—When Void.

SEC. 6. Said board shall have the power to declare all contracts made under this act void when the work is not being done according to contract, or the materials furnished are not furnished in quality or quantity or in the time stipulated for in the contract, and shall, in such event, relet the work upon the same terms, except as to notice, as is provided in this act, and the substance of this section shall be set forth in each contract.

Compensations.

SEC. 7. The board of commissioners, other than the governor, and the superintendent of construction shall be allowed and paid each five dollars per day for all the time necessarily employed by them in the performance of the duties required by this act, together with all necessary traveling expenses, out of the funds hereinafter appropriated, upon filing with the auditor of state their verified statement of services rendered and expenses incurred, after such statement shall have been approved by the board of commissioners, and the said auditor shall thereupon draw his warrant upon the treasurer of state for the amount of such statements: *Provided*, That the governor shall be paid in like manner for all traveling expenses necessarily incurred by him under this act, upon filing his statement with said auditor.

Southeastern District—Admission to Hospital.

SEC. 8. The counties of Monroe, Brown, Bartholomew, Lawrence, Jackson, Jennings, Ripley, Dearborn, Ohio, Switzerland, Jefferson, Scott, Clark, Floyd and Washington are hereby constituted and designated as the southeastern district, and all persons resident in said district heretofore or hereafter adjudged insane and eligible to admission to an insane hospital as heretofore, now or hereafter provided by law, shall be admitted to and cared for by the hospital herein provided for, and when said Southeastern hospital for the insane shall be completed, organized and ready for the reception of patients, the governor shall issue his proclamation reciting such facts, and he shall thereupon order transferred from the Central hospital for the insane to said Southeastern hospital for the insane all inmates therein at such time who shall have been committed from any of the counties hereintofore named in this section, and from and after the issuance of such proclamation all persons having a legal settlement in either of said counties, who shall be adjudged insane and eligible for admission to a hospital for the insane under any law then or thereafter in force, shall be received by and cared for by said Southeastern hospital for the insane. The governor shall have power to require the superintendent of the said Southeastern hospital for the insane to remove from the Central hospital for the insane all inmates whose removal is provided for in this section, and the expense of such removal shall be paid, as by law provided, out of the funds hereafter appropriated for the maintenance of said Southeastern hospital for the insane: *Provided*, That the governor of Indiana may transfer any county to or from said district, as public convenience may require.

Trustees—Appointment—Duties, Powers, Etc.

SEC. 9. Upon or before the completion of the said Southeastern hospital for the insane the governor shall appoint a board of three trustees for the management thereof in all respects as provided by the acts of the general assembly of Indiana of 1897, page 157, in force March 5, 1897, so far as said act may be applicable, and the governor shall, in making such appointments, fix the time when such trustees shall take office, and the said board of trustees so to be appointed shall qualify, organize, serve, control, conduct, manage and govern said Southeastern hospital for the insane under and pursuant to all laws now or hereafter in force in reference to the Northern, Eastern and Southern hospitals for the insane so far as the same may be applicable and pertinent; and said board of trustees shall have and enjoy the same tenure of office, pay, powers, privileges and responsibilities as are now or may hereafter be conferred by law upon the boards of trustees of said last mentioned hospitals, all under and pursuant to the same rules and laws, so far as applicable and pertinent, and all laws and parts of laws not in conflict with this act heretofore or hereafter enacted for the government and control of said Northern, Eastern and Southern hospitals for the insane, so far as applicable, are extended to and declared to embrace and govern said Southeastern hospital for the insane.

Expert Advisor to Commissioners.

SEC. 10. The board of commissioners of said Southeastern hospital for the insane shall, from time to time, have power to employ, consult and pay an expert advisor, who shall be a physician who has had experience in a hospital for the insane, with reference to any or all parts of the work necessary to be done in the performance of their duties as contemplated by this act. Any such service shall be paid for out of any funds appropriated for carrying out the provisions of this act, upon the certificate of the said board of commissioners, filed with the auditor of state. A majority of said board of commissioners shall be competent and have power to decide and determine all questions relating to the performance of the duties enjoined by this act.

Appropriation—How Available.

SEC. 11. For the purpose of carrying out the provisions of this act there is hereby appropriated out of any funds in the state treasury not otherwise appropriated, the sum of five hundred sixty thousand dollars, or so much thereof as may be necessary, to be expended by the said board of commissioners as herein provided. Of this sum sixty thousand dollars shall be available November 1, 1905; two hundred and fifty thousand dollars June 1, 1906; two hundred and fifty thousand dollars January 1, 1907.

Chapter 30.

AN ACT to fix the time for holding courts in the Twenty-eighth judicial circuit, composed of the counties of Wells and Blackford, repealing all laws in conflict therewith, and declaring an emergency.

[S. 209. Approved February 21, 1905.]

Twenty-Eighth Judicial Circuit—Time—Place.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That the terms of court in the Twenty-eighth judicial circuit shall be held as follows, to wit: In the county of Wells, commencing on the third Monday of April, first Monday of September, third Monday of November and first Monday of February of each year and continue for six weeks in each term, if the business thereof shall require it, and in the county of Blackford there shall be four terms of court each year, commencing on the Monday succeeding the terms of court in the county of Wells, and each term shall continue for five weeks if the business thereof shall require it: *Provided, however*, That the February term of 1905 of the Wells circuit court shall end on the eighteenth day of March, 1905, and the March term of 1905 of the Blackford circuit court, as now provided, shall commence on the twentieth day of March, 1905, and end on the twenty-second day of April, 1905.

Writs Returnable.

Sec. 2. All writs, recognizances, publications, rules or processes of whatever kind issued out of or made in either circuit court and made returnable to any term of court, as heretofore fixed by law, shall be deemed and held to be returnable to the first term of such court, as provided by this act.

Repeal.

Sec. 3. All statutory provisions directly in conflict with the provisions of this act as to time and length of terms of the circuit court in said counties are hereby repealed.

Emergency.

Sec. 4. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in effect from and after its passage.

CHAPTER 31.

AN ACT regulating township business, and to provide for the funding of township indebtedness.

[H. 198. APPROVED FEBRUARY 23, 1905.]

Township Business—Indebtedness—Issue of Bonds.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That any township in this state, being indebted to an amount beyond the ability of the current taxes to meet, and which indebtedness is evidenced by bonds, notes or other obligations heretofore issued or negotiated by such township, may for the purpose of funding or refunding such indebtedness or any part thereof, reducing the rate of interest thereon, extending the time of payment thereof and canceling so much thereof as may be due, or which shall hereafter become due, upon the vote of all the members of the advisory board of such township, together with the approval of the township trustee of such township, issue its bonds, with interest coupons attached, for an amount not exceeding in the aggregate the amount of such indebtedness of such township, which bonds may be of any denomination not less than fifty dollars and not more than one thousand dollars, and shall be payable at any place named therein in equal annual installments, not exceeding in all the period of fifteen years, and shall bear any rate of interest not exceeding six per cent. per annum, payable semi-annually, evidenced by coupons attached to such bonds, and may be negotiated at not less than par. The amount of such bonds in no event to exceed the constitutional limit of indebtedness.

Duties of Advisory Board.

SEC. 2. The advisory board of such township shall add to the tax duplicate thereof annually a levy sufficient to pay the yearly interest on said bonds and to provide a fund for the liquidation of the principal thereof as they become due, and it shall be unlawful for the township trustee or advisory board to apply the funds arising from such levy to any other purpose.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

Chapter 32.

AN ACT providing for the levy of an annual tax for a state common school tuition fund and providing for its apportionment and distribution, and declaring an emergency.

[H. 3. Approved February 24, 1905.]

Taxation—Common School Tuition Fund.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That there shall be in the year 1905, and annually thereafter, assessed and collected, as state and county revenues are collected, eleven cents and six mills (11 cents and 6 mills) on each one hundred ($100.00) dollars worth of taxable property, real and personal, in the state; which money, when collected, shall be paid into the state treasury for a common school tuition fund, and shall be apportioned to the several counties in the manner herein provided.

Apportionment of 94.8 of Fund.

Sec. 2. The state superintendent of public instruction shall, on the days fixed by law for his apportionment of the school revenue, in each year, add to the sum total of said revenue, in readiness in each county for apportionment, any amount in the state treasury ready for apportionment, together with 94.8 per cent. of the sum collected by virtue of the levy provided for in section one of this act; and, after said addition, the superintendent shall apportion the whole of said sum to the several counties of the state, according to the last enumeration of children therein, with due reference to the diminution provided for by law.

Distribution of 5.2 of Fund.

Sec. 3. A sum equal to 5.2 per cent. of the amount collected under the levy provided for in section one of this act, shall be a fund to be distributed as hereinafter provided.

Town or Township Deficiency—Certificate.

Sec. 4. Whenever any trustee of a township or board of trustees of any school town shall ascertain that there is not a sufficient amount of tuition revenue in his or their hands to enable him or them to maintain the public schools therein for the minimum term now or hereafter provided by law in such current school year, he or they, as the case may be, shall certify in writing under oath such fact to the county superintendent of his or their county, stating therein the rate of the levy for local tuition purposes on each one hundred dollars, and the taxes on each taxable poll made for the supplementary tuition tax by such township or school town in the

year immediately previous to the school year in which such deficiency occurs, or will occur; also, stating the full amount received for tuition from each source, the names and number of teachers employed, the rate per diem paid them, the number of days each has taught and when he began teaching, and an estimate of the amount that will be necessary over and above the tuition revenue then on hand to complete such legal minimum term of all the public schools in such school corporation. Said certificate shall be executed in duplicate. Said county superintendent shall immediately examine such certificate, and if he shall find the facts stated therein to be true, and shall further find that such school corporation has levied the highest amount authorized by law for such school municipality as supplementary tuition tax for the year in which such deficiency will occur, he shall forward one of such certificates to the state superintendent of public instruction, together with the result of his examination, and with the name and postoffice address of such township trustee or the treasurer of such school corporation.

Superintendent and Auditor—Duties.

SEC. 5. Upon receipt of such statement from the county superintendent, the said superintendent of public instruction shall issue an order on the auditor of state in favor of such school corporation, if there be funds in the state treasury available for that purpose, for the amount necessary to bring the school term of said township or school corporation up to the minimum legal term, specifying the name of the trustee of such township, or the treasurer of said town, and his postoffice address. And the auditor of state shall at once draw a warrant on the treasurer of state, payable out of the fund provided for in section 3 of this act in favor of said township or town, payable to the trustee of such township or treasurer of such town, and mail the same to him; provided no such township trustee or treasurer of a school town shall be entitled to draw or receive the funds provided in this act unless said township trustee or school board of trustees has levied a local tuition tax of at least forty cents on $100.00 of taxable property in such township or school town.

Uses of Fund.

SEC. 6. Said township trustee or school board of trustees shall use the amount so received from the state for the payment of the salaries of teachers employed in his township or their town to enable him or them to maintain schools therein for the full term as required by law during the year for which it was received, and shall use it for no other purpose.

Liability for Fund.

SEC. 7. The township trustee, or treasurer of any town school board and the sureties on their bonds receiving such funds from the state, shall be liable for the same as for any other township or school funds they may receive in an official capacity.

Appropriation.

SEC. 8. The sum of seventy-five thousand ($75,000.00) dollars is hereby set apart and appropriated from any moneys in the state treasury, not otherwise appropriated, for the fund provided for in section 3 of this act, for use in the school year beginning in September, 1905.

Repeal.

SEC. 9. All laws and parts of laws in conflict herewith are hereby repealed.

Emergency.

SEC. 10. An emergency existing for this act, it shall be in force from and after its passage.

CHAPTER 33.

AN ACT to exempt real estate and personal property of Greek letter fraternities connected with a college or other institution of learning from taxation, and repealing all laws in conflict therewith.

[H. 125. APPROVED FEBRUARY 24, 1905.]

Greek Letter Fraternity—Tax Exemption.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That any part, parcel or tract of land not exceeding one (1) acre, and the improvements thereon, and all personal property, owned by any Greek letter fraternity, which is connected with any college, university, or other institution of learning, and under the supervision thereof, and which is used exclusively by such Greek letter fraternity to carry out the purposes of such organizations, shall be exempt from taxation.

Chapter 34.

AN ACT to amend sections two (2) and four (4) of an act entitled "An act authorizing the establishment and maintenance of hospitals by boards of county commissioners in their respective counties, either with or without the aid of hospital associations, and authorizing such boards to receive and accept aid and donations from them, and providing for the management and control thereof, and the manner of raising funds to pay the expense of the same," approved March 4, 1903, and authorizing such boards to lease lands to hospital associations for hospital purposes, and declaring an emergency.

[H. 156. Approved February 24, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That section two (2) of an act entitled, "An act authorizing the establishment and maintenance of hospitals by boards of county commissioners in their respective counties, either with or without the aid of hospital associations, and authorizing such boards to receive and accept aid and donations from them, and providing for the management and control thereof, and the manner of raising funds to pay the expenses of same," approved March 4, 1903, be, and the same is hereby amended to read as follows:

Hospitals—Contracts with County Commissioners.

Section 2. That in any county in this state where a hospital association has been or may hereafter be organized and incorporated under any law of this state, if such association shall convey or cause to be conveyed to any such county suitable and acceptable grounds for a hospital site for the purpose of a hospital in such county, and such association shall also guarantee the furnishings and equipments for such hospital, and shall satisfy such board of county commissioners of such county of its ability to make good such guarantee, or in any county in this state where there is, or where there may hereafter be, such hospital association organized and incorporated under any law of this state, and where such county is itself the owner of grounds with a building or buildings already constructed thereon, not otherwise at the time in actual use, which grounds would afford an acceptable site, and which buildings by remodeling and repairing, and by properly furnishing and equipping the same, could be made suitable for a hospital and for hospital purposes, and such association shall guarantee at its own expense the necessary remodeling and repairing of the said building or buildings and the proper furnishing and equipment thereof for such hospital uses and purposes, and shall satisfy such board of county commissioners of such county of its ability to

make good such guarantee, then such board of county commissioners is hereby empowered on behalf of such county wherein the grounds for such hospital site are to be conveyed by such hospital association therein, to such county, to enter into contracts with such association with reference to the construction of suitable buildings for hospital purposes upon such grounds to be conveyed, and when conveyances are made, to construct thereon such buildings, and at the expense of the said county, and in any county where the grounds with buildings already thereon, are owned by the county, but where the remodeling and repairing, furnishing and equipment thereof so as to make such buildings suitable for hospital purposes are to be done, made, furnished and provided by the said association and at its own cost and expense, then the board of county commissioners in the said county, is hereby empowered to enter into contracts with the said hospital association for the leasing on the part of the said county, to the said hospital association, for the purposes of such hospital, of the said property, and for such period of time when used for such purposes, but to revert and the possession thereof to be surrendered to said county when not so used, and upon such other terms and conditions as by and between the said county and the said hospital association, may be mutually agreed upon.

Meetings of Hospital Board.

SEC. 2. That section four (4) of the said described act be, and the same is hereby, amended to read as follows:

Section 4. The governing board of such hospital shall meet once each month at the time and place of the regular monthly meetings of the board of county commissioners of the county, at which meetings the business of such hospital shall be considered, and where in the judgment of the said governing board, other and additional regular and called meetings shall be deemed necessary for the proper management of the said hospital and of its interests, the said board is hereby authorized to appoint and provide for such additional meetings, and to prescribe the time, place and manner for holding the same; and a majority of the members of said governing board shall constitute a quorum for the transaction of business.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force and take effect from and after its passage.

Chapter 35.

AN ACT fixing the terms of court in the fifteenth judicial circuit, composed of the counties of Morgan and Owen, repealing all laws in conflict therewith, and declaring an emergency.

[H. 199. Approved February 24, 1905.]

Fifteenth Judicial Circuit—Terms—Place.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That in the fifteenth judicial circuit of the State of Indiana, composed of the counties of Morgan and Owen, the terms of the circuit court shall begin and be held as follows: In the county of Morgan on the first Monday of February, the fourth Monday of April, the first Monday of September and the third Monday of November in each year, and each of said terms to continue seven weeks. In the county of Owen the terms of court shall begin on the Monday following the close of the terms of court in Morgan county and shall continue until the beginning of the next term of court in Morgan county, if the business thereof shall require it: Provided, That, if in any year any term of the Morgan circuit court shall operate to reduce the next ensuing term of the Owen circuit court below four weeks, then under such circumstances said term of the Morgan circuit court shall close at the end of six weeks, and the next term in Owen county shall begin on the Monday following the close of said term in Morgan county.

Writs Returnable.

Sec. 2. All writs, summons, subpoenas, recognizances, publications, rules, bonds, orders or process whatever, issued out of said Owen circuit court and made returnable to any term of said court, as heretofore fixed by law, shall be deemed and held to be returnable to the first term of said court, as fixed by this act.

First Term Under Act.

Sec. 3. The first term of court to be held under and by virtue of this act, shall be the one beginning on the fourth Monday of April, 1905, in Morgan county, and this act shall not affect any term of court being held under existing law when this act is passed.

Repeal.

Sec. 4. All statutory provisions which are in conflict with the provisions of this act, as to time and length of terms of court in said circuit are repealed.

Emergency.

SEC. 5. It is declared that an emergency exists for the immediate taking effect of this act, and this act is declared to be, and the same is in force from and after its passage.

CHAPTER 36.

AN ACT concerning the settlement of decedents' estates.

[H. 210. APPROVED FEBRUARY 25, 1905.]

Decedent's Estate—Real Estate—Petition for Administrator.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That any one interested in any real estate in this state, liable for the debts of any decedent and desirous of protecting the same from sale to make assets for the payment of such debts, may file a petition in any circuit court of this state, authorized to issue letters of administration on the estate of such decedent, or with the clerk thereof in vacation, setting forth such facts, giving the name of such decedent and the date of his or her death, if known, and if unknown and by diligent enquiry can not be ascertained, alleging such fact, and shall also indorse thereon the time for hearing such petition, which shall not be less than thirty days from such filing.

Clerk—Notice of Petition.

SEC. 2. Upon the filing of such petition it shall be the duty of the clerk of such court to give notice of the filing of such petition, its nature and object, and the date set for hearing as indorsed on said petition, by three successive weekly publications in some newspaper published in the county in which said petition has been filed.

Hearing—Decree.

SEC. 3. Upon the day fixed for such hearing the court, if it shall appear by proof that due notice has been given, as provided in the preceding section, and no letters of administration have been issued on such estate, shall proceed to hear such petition, and if the court be satisfied that the material averments thereof are true, it shall so find, and enter a decree that if no letters of administration be issued on the estate of such decedent for a period of twelve months from that date, all claims against such estate shall be barred, except as now provided in case of liabilities of heirs, devises [devisees] and legatees, but if it shall appear that letters of administration have been issued on the estate of such decedent, the court shall dismiss the petition and proceed with the administration of such estate under existing laws.

Claims—When Barred.

SEC. 4. If the decree provided in the preceding section shall be made and no letters of administration be issued on the estate of such decedent for a period of twelve months thereafter, all claims against the same shall be barred except as now provided in case of liabilities of heirs, devises [devisees] and legatees, and no letters of administration shall thereafter be issued on the estate of such decedent.

Costs.

SEC. 5. All costs of such proceedings and publication shall be paid by such petitioner or petitioners.

CHAPTER 37.

AN ACT to protect certain birds of the pheasant kind in the State of Indiana, repealing an act to protect certain birds of the pheasant kind in the State of Indiana, approved February 17, 1899, and declaring an emergency.

[H. 221. APPROVED FEBRUARY 24, 1905.]

Game—Pheasants.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That it shall be unlawful for any person in the State of Indiana for and during the term of six (6) years from and after the passage of this act to injure, take, kill, expose or offer for sale, or have in possession except for breeding purposes any ringneck Mongolian pheasant, any green Japanese pheasant, any copper pheasant or scholmeringer, any Tragophan pheasant, silver pheasant or golden pheasant, being the species of pheasants imported into the United States by the Hon. O. N. Denny, ex-United States consul to Shanghai, China.

Misdemeanor.

SEC. 2. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by fine not less than fifty dollars nor more than one hundred dollars, and in default of payment of the fine imposed, shall be imprisoned in the county jail.

Repeal.

SEC. 3. That the act approved February 17, 1899, entitled "An act to protect certain birds, etc.," found on page 62, chapter XLIV, of the acts of the general assembly of 1899, being in effect the same as this bill except as to time limit, is hereby repealed.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, as the pheasants named in section one hereof will be without protection of law after the 17th day of February, 1905, therefore this act shall be in force from and after its passage.

CHAPTER 38.

AN ACT to establish a state laboratory of hygiene, providing an appropriation for its establishment and maintenance, forbidding the teaching of adulteration, prescribing penalties, repealing all conflicting acts, and declaring an emergency.

[H. 32. APPROVED FEBRUARY 25, 1905.]

State Board of Health—Laboratory of Hygiene.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That a state laboratory of hygiene is hereby established as a department of the state board of health, the same to be under the general control of said board.

Location—Purpose.

SEC. 2. The state laboratory of hygiene shall be at Indianapolis and shall be used for making analyses of foods and drugs for the purpose of enforcing the pure food and drug laws, for making sanitary analyses, pathological examinations and studies in hygiene and preventive medicine to aid in the enforcement of the health laws, and for no other purpose. All work done in the state laboratory of hygiene shall be done exclusively and entirely for the public benefit, and no fees shall be charged.

Superintendent—Chemist—Salaries.

SEC. 3. For the conduct of the state laboratory of hygiene the state board of health shall employ and appoint a superintendent other than the secretary of such board of health, and such superintendent shall have charge of and superintend and manage such state laboratory of hygiene, and he shall receive a salary not to exceed two thousand ($2,000) dollars per annum. Such superintendent shall be learned and skilled in bacteriology and pathology. The state board of health shall also employ a skilled chemist, whose salary shall not exceed fifteen hundred ($1,500) dollars per annum, and both appointees shall be temperate, healthy, well recommended and of good moral character. The board may employ such minor employes as it may deem necessary for the successful conduct of such laboratory, and define the duties and fix the compensation of such employes, which employment shall be with

the consent of the governor. A report of all work done in the laboratory of hygiene, together with an account of all expenditures for each year ending October 31st, shall be made to the governor not later than the first day of December following. Such report shall be published in the regular annual report of the state board of health.

Appropriations—Equipment and Maintenance.

SEC. 4. Five thousand dollars, or so much thereof as is found necessary, are hereby appropriated for equipping the state laboratory of hygiene with all necessary apparatus, books, appliances and furniture, the same to be paid out by certificates issued by the state board of health and attested by the secretary; and on presentation of such certificates the auditor of state shall draw his warrant for the amount certified on the state treasurer, who shall pay the same, and all certificates shall have attached itemized bills for their face amount. For maintenance of the laboratory, purchase of food and drug samples, salaries of employes, transportation and hotel expenses of those necessary to conduct inspections, collect samples and attend prosecutions, and for the incidental expenses ten thousand ($10,000) dollars per annum are hereby appropriated, the same to be paid out on certificates, as provided in this section. The appropriations herein provided for shall be available at the taking effect of this act. The state board of health shall locate and establish said laboratory in a room in the state house building in the city of Indianapolis, Indiana, and the custodian of such state house shall set apart a room for such purpose.

Adulteration Formulas—Penalty to Furnish or Teach.

SEC. 5. Any person who shall sell, offer for sale or give away, barter or trade any receipt or formula for the adulteration or imitation of food, or teach or offer to teach any method or means of adulterating any article of food or means of producing or manufacturing any imitation of any article of food within this state shall be guilty of a misdemeanor and upon conviction thereof shall be fined any sum not exceeding one thousand ($1,000) dollars, to which may be added imprisonment in the county jail for a period not exceeding six month[s] in the discretion of the court or jury trying the case.

Repeal.

SEC. 6. All statutes and parts of statutes in conflict with the provisions of this statute are hereby repealed.

Chapter 39.

AN ACT to amend section 3 of an act entitled "An act concerning the employment of the convicts of the state prison, regulating the hours of the same, how said labor may be employed, when contracts of the same shall expire, making an appropriation for the purchase of machinery, tools and other appliances necessary for the state to employ such labor on its own account, known as the public account system, providing for the payment of all officers, superintendents and guards of said prison, and declaring an emergency," approved February 10, 1899, and declaring an emergency.

[S. 93. Approved February 25, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That section 3 of the above entitled act be amended so as to read as follows:

State Prison—Leasing and Cultivating Lands.

Section 3. The said board of control are hereby authorized to lease lands and to use lands owned by the state not otherwise devoted to state purposes, to be selected by them, to be improved and employed and used in cultivating and raising farm products in the discretion of said board, said products to be used to supply the wants and needs of said prison, and should there remain any surplus the same may be sold in the open market, and if, in improving lands owned by the state, it shall become necessary to dispose of timber, the same may be sold by said board, either as standing timber or cut up into marketable products and sold, and said board of control may employe upon said lands so leased or owned all prisoners in said prison not employed in prison duties. Such prisoners shall be employed only at hand labor while working said lands. The control and superintendency of said lands and of convicts employed upon the same shall be under the board of control and the officers of said prison.

Emergency.

Sec. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

Chapter 40.

AN ACT providing for the extension and re-extension of time within which to file bill of exceptions.

[H. 111. Approved February 25, 1905.]

Bill of Exceptions—Extension and Re-Extension of Time.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That whenever time has been given in which to file any bill of exceptions, the court, if in session, or the judge thereof, in vacation, may, on a proper showing under oath, either in term time or vacation, grant an extension of time. And it shall be the duty of such court or judge to grant a reasonable extension of time to file a bill of exceptions containing the evidence: *Provided*, The failure to tender such bill of exceptions is due to the inability or failure of the court reporter to prepare and furnish a transcript of the evidence. If the extension of time is granted by the judge in vacation, such action may be indicated by a recital in the bill of exceptions itself, but if such extension is granted in term time, the same may be indicated by an order of court, duly entered on the order book, of which all parties to such suit shall take notice: *Provided*, Such application for such extension must be made prior to the expiration of the time first given.

Chapter 41.

AN ACT authorizing railroad[s] companies heretofore organized under the general railroad laws and which have availed themselves of the benefit of the act of March 9, 1903, authorizing such companies to operate as interurban electric or street railways, to haul freight by steam.

[H. 265. Approved February 25, 1905.]

Railroads—Electric or Steam—Freight Hauling.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That any railroad company heretofore organized under the general railroad law, and which has heretofore availed itself of the provisions of the act of March 9, 1903, authorizing such railroad companies to operate as interurban, electric or street railways, shall have the right to haul freight, freight cars and trains by steam locomotives.

CHAPTER 42.

AN ACT to authorize the admission of war nurses as members of the Indiana state soldiers' home.

[S. 5. APPROVED FEBRUARY 25, 1905.]

Indiana State Soldiers' Home—War Nurses—Admission.

SECTION 1. *Be it enacted by the general assembly of the State of Indaina,* That all honorably discharged nurses who have served the United States in any of its wars, who were citizens of Indiana when employed as such nurses and who have been residents and citizens of the State of Indiana for one year immediately preceding the date of their application and who are at the time of the date of application disabled or destitute may be admitted to the Indiana state soldiers' home as members thereof, under the same terms and conditions and subject to and governed by all the laws, rules and regulations that now are or may hereafter be provided for soldiers, sailors and marines: *Provided,* That no part of the nurse's pension of any such nurse shall be applied to support her husband.

CHAPTER 43.

AN ACT to provide for the erection of a monument in memory of Oliver P. Morton, and appropriating money therefor, and declaring an emergency.

[S. 65. APPROVED FEBRUARY 25, 1905.]

Preamble.

WHEREAS, No man in civil life, save Abraham Lincoln, did more for the union during the civil war than Oliver P. Morton, the great war governor of Indiana, and

WHEREAS, The State of Indiana has never erected a monument or any other suitable memorial within the borders of the state to perpetuate his name and memory, and

WHEREAS, The Department of Indiana Grand Army of the Republic has memorialized this general assembly to appropriate sufficient funds from the state treasury to erect an heroic statue of enduring material, in a conspicuous location within the state house grounds to perpetuate his name and memory; therefore

Oliver Perry Morton—Monument—Appropriation.

SECTION 1. *Be it enacted by the general assembly of the State of Indaina,* That the sum of thirty-five thousand dollars ($35,000) be and the same is hereby appropriated out of the funds in the state

treasury for the purpose of erecting an heroic statue of enduring material to perpetuate the name, memory and services of Oliver Perry Morton, the great war governor of Indiana, the eminent senator, the courageous patriot: *Provided*, That five thousand dollars only of said appropriation shall be available in the year 1905, and that the remainder of said appropriation shall be available in the year 1906.

Commissioners—Appointment—Powers—Duties.

SEC. 2. That for the purpose of organizing to build such monument, the governor shall appoint five commissioners, three of whom shall be members of the Grand Army of the Republic, Department of Indiana. Such appointments shall be made not later than thirty days after the passage and approval of this act, and their terms shall be not exceeding four years; the governor shall at once notify such persons of their appointment under his certificate and seal, and such notice shall constitute their commission, and shall be by them deposited in the office of the secretary of state, and there recorded. The commissioners so appointed shall, within twenty days after their appointment, qualify by taking an oath that they will honestly, diligently and according to law, discharge their duties as such commissioners, and shall give bond to be approved by the governor, each in the sum of five thousand dollars ($5,000), conditioned for the faithful performance of such duties as may be imposed upon them by law, and that the cost of said monument shall not exceed said appropriation herein. Such commissioners shall constitute and be known as the "board of commissioners of the Oliver P. Morton monument." They shall elect one of their number as president, whose duty shall be to preside over meetings of said board, sign the record of the proceedings thereof, and sign or stamp all vouchers before a warrant is drawn for their payment. They shall cause to be kept a record of their proceedings and shall report quarterly to the governor, for the use of the public, a synopsis of their proceedings, and an account of their expenditures. They may make such rules and regulations for the payment of money, the government of contractors and employes and the management of the grounds and premises as they may deem prudent, not inconsistent with this act and the laws of the state. They may meet on their own adjournment and shall meet at the call of the president of the board; a majority thereof present at such meeting shall constitute a quorum for the transaction of business. They shall receive no compensation for their services, but shall be entitled to their actual expenses for the time they are actually employed in attending to their duties as such commissioners, to be paid on itemized statements, sworn to by the

claimant. The governor may, for just cause, remove any member of said board, and fill all vacancies therein caused by removal or otherwise.

Location—Private Contributions.

SEC. 3. Such commissioners are authorized and directed, as herein provided, to build such monument, in a conspicuous location within the state house grounds; but no greater amount than is hereby appropriated shall ever be paid out of the funds of the state treasury: *Provided, however,* That said commissioners are authorized to receive private contributions and to expend the same according to the provisions of this act.

Design—Advertisement—Selection—Bids, Etc.

SEC. 4. Said commissioners shall prepare, select or adopt a design or plan for said monument, and to enable them to do so, they shall at once cause publication to be made in at least two newspapers within the state and two newspapers without the state, that at a certain time not to exceed six months thereafter, they will proceed to examine such designs or plans and specifications for such monument, not to exceed in cost the appropriation herein, submitted to them by competent architects or artisans skilled in such work, and each of said architects or artisans so competing shall submit full and careful estimates of the cost of erecting such monument, and a sealed proposal of the fees, salary or percentage he will charge or expect if his plan should be adopted: *Provided, however,* That said commissioners may reject any and all plans and designs so submitted if they consider them unsuitable, and readvertise in the same manner for further plans or designs. The commissioners shall then proceed to give the plans or designs, specifications and drawings which may have been submitted, a thorough and critical examination. If they shall find the specifications and estimates correct and that the plans and designs, or any of them, can be constructed within the limits of cost aforesaid, and that the same are suitable in regard to permanence and appearance, and adapted to all the purposes and aims of such a monument, and in keeping with the dignity of the state, they may select the most meritorious of such plans or designs, and notify the successful architect thereof, and shall return the rejected plans or designs to the respective owners thereof. In advertising, as aforesaid, for plans or designs, the commissioners may also give notice that they are receiving bids for the entire work from persons wishing to accompany their plans or designs with such bid; and persons so accompanying their plans or designs with such bids may make such bids on condition that their plans or designs are not to be used, except in case of the award of the contract to them.

Contracts—Reserved Payments.

SEC. 5. The commissioners are authorized to contract for labor, material and transportation, or any distinct portion of the work. All lettings of the work shall be advertised in two or more newspapers of general circulation, and sealed proposals shall be received therefor; but the commissioners shall have the right to reject any and all bids. In all contracts the interest of the state shall be protected by proper bonds. Ten per cent. shall be reserved from payments on estimates on work in progress, until the contract therefor shall be completed and the work done thereunder inspected and accepted by the commissioners.

Superintendent—Secretary.

SEC. 6. The board may, when they deem it necessary, employ a superintendent who shall be qualified and give bond as prescribed by the board, and whose duties and compensation shall also be prescribed by the board. The board shall appoint a secretary who shall take an oath to faithfully perform the duties of his office; he shall keep a record of the proceedings of the board; shall make a record of all contracts and obligations; shall keep a set of books so as to show the financial condition of the board, and shall make statements of the costs and expenditures, and a complete list of vouchers and for what purpose and to whom paid, upon request of the governor. The pay of the secretary shall be fixed by said commission and he shall give bond in the sum of five thousand dollars for the performance of his duties.

Supervising Architect.

SEC. 7. The architect whose plans are selected shall be the supervising architect in building said monument, and he shall be liable on his bond for any failure in faithfully discharging the duties of his office, and for all losses or damages that may be incurred on account of his violating any of the provisions of this act, or on account of his neglect or incapacity for the duties of his office. He shall receive such compensation as may be agreed upon in advance between him and said commissioners as full compensation for plans and specifications, and supervision of the erection of such monument, as the architect thereof.

Emergency.

SEC. 8. An emergency exists for the immediate taking effect of this act, therefore the same shall take effect and be in force from and after its passage.

CHAPTER 44.

AN ACT to amend sections one, two and three of an act to amend sections two (2), eleven (11) and forty-two (42) of an act of the general assembly entitled "An act concerning the incorporation and government of cities having more than fifty thousand (50,000) and less than one hundred thousand (100,000) population according to the last preceding United States census and matters connected therewith and declaring an emergency," approved March 6, 1901, and declaring an emergency.

[S. 192. APPROVED FEBRUARY 25, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section one (1) of the above entitled act be amended to read as follows:

Cities of 50,000 to 100,000—Time of Election.

Section 1. The elective officers of such cities shall be a mayor and councilmen as hereinafter provided. There shall be held a city election in such city on the first Tuesday after the first Monday in November of every fourth year, commencing with the first Tuesday after the first Monday in November, 1905, and continuously thereafter every fourth year for the choice of such mayor and councilmen. Such election shall be held in conformity with, and in accordance with the general election laws of this state, and with the laws for the making out of certificates and memoranda of the result, the delivery of the list of voters and tally papers, the assemblage of inspectors or judges of election as a board of canvassers and the duty of such board in reference to state elections. The duties of the county clerk in reference to state elections shall be performed by the clerk of such city. All special elections in such cities shall be governed by the same provisions. The laws of the state in reference to contests after state elections and all other matters shall be applicable to such city elections as far as they are adapted to the same.

Councilmen—Number and Terms.

SEC. 2. That section two (2) of said act be amended so as to read as follows:

Section 2. Each ward shall elect one (1) councilman at the city election hereinbefore provided for and the whole city shall elect four councilmen at large whose terms of office shall commence at twelve (12) o'clock, noon, on the first Monday of January following such election and shall continue until the same day and month of the fourth year thereafter.

Mayor—Terms—Qualifications.

SEC. 3. That section three (3) of the above act be amended to read as follows:

Section 3. There shall be chosen at each general election, hereinbefore provided for, a mayor whose term of office shall commence at twelve (12) o'clock noon on the first Monday of January next after his election and shall continue four years and until his successor is elected and qualified except as herein otherwise provided. No person shall be qualified for the office of mayor who has not been a citizen and resident of such city for at least three (3) years next previous to his election and who is not at least twenty-five (25) years of age.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, it is hereby declared that the same shall be in force from and after its passage.

CHAPTER 45.

AN ACT to amend section 3 of an act entitled "An act providing for a juvenile court, providing for the appointment of probation officers, outlining their duties and specifying their compensation; providing a lawful method of procedure against juvenile delinquents, specifying places for their temporary and permanent detention, and the compensation for their care, providing for time and place of trial, providing that no destitute girl shall be sent to the industrial school for girls, providing for the approval of the board of state charities in certain contingencies; repealing laws inconsistent herewith, and declaring an emergency," approved March 10, 1903, and declaring an emergency.

[S. 144. APPROVED FEBRUARY 27, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section three (3) of an act entitled "An act providing for a juvenile court, providing for the appointment of probation officers, outlining their duties and specifying their compensation; providing a lawful method of procedure against juvenile delinquents, specifying places for their temporary and permanent detention, and the compensation for their care, providing for time and place of trial; providing that no destitute girl shall be sent to the industrial school for girls; providing for the approval of the board of state charities in certain contingencies, repealing laws inconsistent herewith, and declaring an emergency," approved March 10, 1903, be and the same is hereby amended to read as follows:

Juvenile Court—Complaint—Probation Officer—Trial.

Section 3. Whenever a complaint is made or pending against a boy before he has completed his sixteenth year or a girl before she has completed her seventeenth year for the commission of any offense not punishable by law with imprisonment for life, or for which the penalty is death, before any court or magistrate, it shall be the duty of such court or magistrate at once and before any other proceedings are had in the cause to give notice in writing of the pendency of said cause to the probation officer of his county and forthwith to transmit all papers in said cause to the juvenile court with his certificate that jurisdiction in said cause is in said juvenile court. Said probation officer shall immediately, or as soon thereafter as possible proceed to inquire into and make a full examination and investigation of the facts and circumstances surrounding the commission of the alleged offense, the parentage and surroundings of said child, its exact age, habits and school record and everything that will throw light on its life and character, and may also inquire into the home conditions, habits and character of its parents or guardians, and shall make a full report thereon in writing to the juvenile court before said cause is tried. If upon consultation with the probation officer and examination of such report it shall appear to the judge of said court that the child is not guilty of the offense charged against it, or that the interest of the child will be best subserved thereby, the court shall order that such child be not brought into court and said cause shall be dismissed. Complaints in writing duly sworn to may also be filed in the juvenile court as in other courts against any boy or girl as above provided, and when so filed in said court the probation officer shall make examination and investigation and make written report thereon exactly as in cases certified to said court from any other court or magistrate, and in such cases it shall be the duty of the juvenile court to proceed as in other cases. If upon the trial of any child it shall appear to the judge of the juvenile court that such child is guilty of the offense charged he may withhold judgment for a definite or indefinite period if it appear that the public interest and the interest of the child will be best subserved thereby, and may order that such child be returned to his or her parents, guardians or friends; or he may commit such child to the care of a volunteer probation officer who shall exercise supervision over it until such time as it is discharged by the court from further supervision upon the recommendation of such volunteer probation officer; or the court may order such child to be placed in the family of some suitable person where such family home shall be recommended by the probation officer of the court, there to remain until he or she shall have attained the age of twenty-one years or for any less time; or the

court may order such child to be placed in the home where the county's dependent children are kept; or if it appears to be for the best interest of such child and such child appears to be in need of institutional training the court may order him or her to be committed to some institution managed by a corporation or by an individual, and devoted to the care of such children, for a definite or indefinite period, said institution to be situated in the State of Indiana and to be inspected at least once a year and approved by the board of state charities, and to receive for its services a per diem of twenty-five cents for each day such child may be in its custody, said per diem to be paid by the county sending the child upon itemized vouchers duly certified to by the court; or the court may impose a fine with costs, or the court may for good cause shown suspend judgment in any case for a definite or indefinite period; or if the offense be malicious trespass the court may require the damage to be made good, or if the offense be petit larceny and the stolen property be not restored the court may require it to be paid for by the defendant himself if it be shown that he is capable of earning the money or has money of his own, and in all the foregoing cases the court may decree the child to be the ward of the court so far as its person is concerned, and in all cases where any child has been decreed to be a ward of the court the authority of the court over its person shall continue until the court shall otherwise decree, and the court may adopt all needful rules and regulations that may be needed in order to carry out the provisions of this act. In every case in which the court shall commit any child to the care and custody of any institution as above provided other than a state institution and such child shall have a parent or guardian within the county, the court may take and enter an order requiring such parent or guardian to appear before said court upon a day and hour to be named therein and show cause, if any he or she have, why he or she should not pay for the support of such child, in whole or in part, while it is an inmate of such institution. A certified copy of said order shall be served upon such parent or guardian by the sheriff of the county not less than ten days prior to the day fixed therein for such appearance. Upon due service and return of said order the court shall, upon the day fixed, or upon such subsequent day as may be fixed by the court, hear evidence as to the financial ability of such parent or guardian and in case the court shall find that such parent or guardian should pay for, or contribute to, the maintenance of such child, the court shall render judgment against such parent or guardian that such parent or guardian shall pay to the clerk of the juvenile court such sums as the court shall adjudge and at such times and in such amounts as shall be by the court found just. And such judgment shall be

enforced as other judgments are enforced, and all money collected on such judgments shall be held by the clerk of the juvenile court and shall be remitted by him quarterly to the institution keeping such child or children, and the amount so remitted shall be deducted from the quarterly bill of such institution: *Provided*, That the clerk of such juvenile court shall make a verified report to the court at the close of each quarter of the amount of money so collected on such judgments which report the judge shall cause to be filed with the county commissioners with the bill rendered by the institution keeping such child. If any child is found guilty of the offense charged against it, or appears to be wilfully wayward and unmanageable, the court may commit him or her to the Indiana boys' school, the Industrial school for girls, or to any other state, penal or reformatory institution authorized by law to receive such boy or girl, subject to such conditions as are already provided by law for the reception of such children in said schools and institutions. And in all cases when a child shall be committed to a state or other institution as above provided the report of the probation officer shall be attached to the commitment and the child shall be placed in charge of the probation officer, or some person designated by the court to be conveyed under his direction to the designated institution: *Provided*, That a woman shall always be sent with the girls so committed, and the person taking such child to the designated institution shall be allowed and paid his or her actual expenses and no more where he or she is an officer of such juvenile court appointed by the court, and in all other cases the person taking such child to any institution shall be allowed and paid for his or her services the same fees and expenses as are paid to sheriffs in like cases: *And provided*, That the court may, when the health or condition of the child requires it, cause the child to be placed in a public hospital or institution for treatment or special care, or in a private hospital or institution which will receive it for like purposes without charge or for the per diem of twenty-five cents a day: *Provided*, That when any child contemplated by this act shall be sentenced to confinement in any institution to which adult convicts are sentenced, it shall be unlawful to confine such child in the same building, yard or enclosure with such adult convicts, or to bring such child into any yard or building in which adult convicts may be present: *And provided*, That in every trial of any such child he shall be entitled to a trial by a jury of twelve persons if he shall so elect: *And provided*, That if any such boy or girl against whom a complaint is made is unable to give bond and the court does not release him or her on his or her own recognizance, then said boy or girl shall be entitled to an immediate hearing and trial in the juvenile court according to law: *And provided*, That in case the judge of any special

juvenile court established under the provisions of section one (1) of this act shall be unable to preside therein by reason of serious illness of himself or family or for any cause disqualifying judges of the circuit and superior courts, he may appoint a judge pro tempore for said court who shall hold said court during such inability, such judge pro tempore to be paid in the same manner and amount as are judges pro tempore appointed by the judges of the circuit courts of this state.

Emergency.

SEC. 2. An emergency exists for the immediate taking effect of this act, therefore the same shall be in force and effect from and after its passage.

CHAPTER 46.

AN ACT requiring the registration of all trained nurses, providing a board of registration and examination, fixing the number, duties and qualifications of said board and providing for the registering of nurses, providing penalties for violation of said act.

[H. 15. APPROVED FEBRUARY 27, 1905.]

Trained Nurses—Board of Registration and Examination.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That upon the taking effect of this act the governor shall appoint, within sixty days, a state board of registration and examination of nurses to be composed of five members who have not had less than five years' experience in their profession, exclusive of their training, and who shall not be connected with any hospital. One of these members shall be designated by the governor to hold office for one year, two for two years and two for three years, and thereafter, upon the expiration of the term of office of the person or persons so appointed the governor shall appoint successors to each person or persons to hold office for three years. All vacancies occurring on this board shall be filled by the governor from persons qualified as above stated.

Meetings—Officers—Secretary's Duties—Salaries.

SEC. 2. The members of the said state board of registration and examination shall meet in the city of Indianapolis as soon as organized, and annually thereafter in the month of July shall elect from their members a president and also a secretary, who shall be the treasurer. Three members shall constitute a quorum, and special meetings of the board shall be called by the secretary upon written request of any two members. The state

board of registration and examination is authorized to frame such by-laws as may be necessary to govern its actions. The secretary shall be required to keep a record of all meetings of the board, including a register of the names of all nurses duly registered under this act; said register shall at all reasonable times be open to public scrutiny, and the board shall cause the prosecution of all persons violating any of the provisions of this act, and may incur necessary expense on this behalf. The said by-laws shall provide the subjects upon which applicants shall be examined. The secretary shall receive a salary to be fixed by the board not to exceed five hundred ($500) dollars per annum, also traveling and other expenses incurred in the discharge of the official duties. The other members of the board shall receive five ($5.00) dollars per day for each day actually engaged at meetings of the board, and legitimate and necessary expense, said expense and salary shall be paid from fees received by the board under the provisions of this act, and no part of salaries or other expenses of the board shall be paid out of the state treasury.

County Register—Clerk's Duty—Fee.

SEC. 3. The clerk of the circuit court of any county, upon presentation to him of a certificate from the state board of registration and examination, shall register the date of registration with the name, residence and address of the holder thereof in a book to be kept in his office for this purpose and marked "Register of Trained Nurses," and shall issue to the applicant a certificate of such registration under the seal of the circuit court of the county, for which registration he shall be paid fifty cents by the applicant.

Meetings of Board for Registration, Etc.—Fee.

SEC. 4. That after June 1, 1908, it shall be the duty of said board of registration and examination to meet not less frequently than once a year. Notice of each meeting shall be given in one daily newspaper and in one nursing or medical journal published within the State of Indiana thirty days prior to said meeting. At these meetings it shall be the duty of said board of registration and examination to examine the diplomas and credentials of all applicants for registration under this act. Said board shall also examine such applicants upon the branches usually taught in the training schools for nurses to determine their fitness and ability to give efficient care to the sick. The said board shall require of each applicant for examination and registration a fee of ten ($10.00) dollars to be paid upon application.

Applicant—Evidence.

SEC. 5. That after June 1, 1908, the applicant shall furnish satisfactory evidence that he or she is twenty-one years of age, of

good moral character, has received the equivalent of a high school education and has been graduated from a training school for nurses connected with a general hospital approved by the board, where a systematic course of two years' instruction is given.

Registration Without Examination—Non-Graduates—Fee.

SEC. 6. Any resident of the State of Indiana being over the age of twenty-one years, of good moral character, holding a diploma from a training school for nurses connected with a general hospital giving a course of at least two years' training or any resident of the State of Indiana being over the age of twenty-one years, of good moral character and who has had seven years' experience as a nurse, three years of which was in a general or special hospital, and engaged in professional nursing at the date of or prior to the passage of this act shall be entitled to registration, without examination, provided such application be made before January 1, 1906. All nurses in training at time of passage of this act and possessing the above qualifications shall be entitled to registration without examination, provided application is made before June 1, 1908. Graduates of training schools in connection with special hospitals giving a two years' course who shall obtain a six months' additional training in a general hospital approved by the state board of registration and examination shall be eligible for registration without examination before June 1, 1908; or said graduates shall be eligible for registration prior to said date who have nursed five years prior to the passage of this act; or upon passing a special examination before the state board of registration and examination in subjects not adequately taught in the training school from which they have been graduated. The by-laws shall provide for the examination and qualification of nurses who make application before January 1, 1906, who have not graduated from a training school, and who have been engaged in nursing ten years, and who are otherwise eligible, and who shall present required credentials from physicians for whom they have nursed. All applicants under this section shall pay to said board the sum of five ($5.00) dollars at the time of making application.

Revocation of License.

SEC. 7. The state board of registration and examination shall have power, after thirty days' notice, upon written charge being preferred and the time and place of meeting being fixed, and after full and free hearing of the same by a majority vote of the entire board, to revoke any license issued by said board for gross incompetency, dishonesty, habitual intemperance or any other act in the judgment of the board derogatory to the morals or standing of the profession of nursing. Upon the revocation of the license or cer-

tificate the name of the holder thereof shall be stricken from the roll of registered nurses in the hands of the secretary of the board and notice sent of same to the clerk of the circuit court of the county in which he or she resides, and there shall be no appeal therefrom.

"A Registered Nurse"—Assumed Title.

SEC. 8. Every person who shall have duly received a license and certificate in accordance with provisions of this act shall be known and styled "a registered nurse," and it shall be unlawful after one year from the passage of this act for any person to practice or advertise as or assume the title of trained nurse or graduate nurse or to use the abbreviations of T. N. or G. N. or any other words, letters or figures to indicate that the person using the same is a trained, registered or graduate nurse, unless he or she shall have first received a license and a certificate in accordance with the provisions of this act.

When Not Applicable.

SEC. 9. This act shall not be construed to affect or apply to the gratuitous nursing of the sick by friends or members of the family and also it shall not apply to any person nursing the sick for hire who does not in any way assume to be [a] registered or graduate nurse.

Penalties.

SEC. 10. Any person violating any of the provisions of this act shall be guilty of a misdemeanor punishable by a fine of not less than twenty-five ($25.00) dollars, and not more than fifty ($50.00) dollars for the first offense, and not less than fifty ($50.00) dollars and not more than one hundred ($100.00) dollars for each subsequent offense.

CHAPTER 47.

AN ACT relative to the liability of common carriers and prescribing the practice and procedure and fixing the burden of proof in certain cases.

[H. 67. APPROVED FEBRUARY 27, 1905.]

Common Carrier—Action Against—Proof.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in all actions against common carriers on account of the failure by such carriers to safely transport and deliver property received by them, it shall be sufficient for the shipper or person entitled to maintain such action to aver and prove, in

the first instance, the delivery to and receipt by the carrier of such property for transportation to a point named, together with the failure of the carrier to so transport or deliver and the resulting damage.

Contract—Defense—Answer.

SEC. 2. Any limitation by contract of the common law liability of such carrier is hereby made matter of defense which shall be specifically set up by answer and which shall not be provable under a general denial. Such affirmative answer shall state facts showing that the contract counted upon is based upon a sufficient consideration, that it is reasonable, that it was fairly entered into by the shipper after he had been given a bona fide and full opportunity to ship at a fair and reasonable rate without limitation of liability.

Issue—Trial.

SEC. 3. A reply of a general denial shall be sufficient to close the issue. And the issue thus formed shall be tried as other issues of fact are tried.

CHAPTER 48.

AN ACT concerning proceedings in the exercise of eminent domain.

[S. 78. APPROVED FEBRUARY 27, 1905.]

Eminent Domain—Survey—Effort to Purchase.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That any person, corporation, or other body having the right to exercise the power of eminent domain for any public use, under any statute, existing or hereafter passed, and desiring to exercise such power, shall do so only in the manner provided in this act except as otherwise provided herein. Before proceeding to condemn, such person, corporation or other body, may enter upon any land for the purpose of examining and surveying the property sought to be appropriated or right sought to be acquired; and shall make an effort to purchase for the use intended such lands, right of way, easement or other interest therein or other property or right. In case such land or interest therein or property or right, is owned by one who is of unsound mind, or an infant, the person, corporation or other body seeking to obtain the land or interest therein for such use may purchase the same of the regularly constituted guardian of such insane person or infant; and if such purchase shall be approved by the court or judge thereof appointing such guardian, and such approval written

upon the face of the deed, such conveyance of the premises so purchased, and the deed made and approved by such court or judge, shall be valid and binding upon such insane person or infant. The deed so given, when executed in lieu of condemnation, shall convey only the interest stated in the deed. Wherever land is taken by condemnation proceedings the entire fee simple title thereto may be taken and acquired if such land is taken for the site of a station, terminal, power-house, sub-station, round-house, yard, car barn, office building or any other purpose except for a right-of-way.

Condemnation—Complaint.

SEC. 2. If such person, corporation or other body shall not agree with the owner of the land, or other property or right or with such guardian, touching the damages sustained by such owner, as provided in the last section, the person, corporation or other body so seeking to condemn may file a complaint for that purpose in the office of the clerk of the circuit or superior court of the county where such land or other property or right is situated. Such complaint shall state:

First. The name of the person, corporation or other body desiring to condemn such lands, or other property or right, who shall be styled plaintiff;

Second. The names of all owners, claimants and holders of liens on the property or right, if known, or a statement that they are unknown, who shall be styled defendants;

Third. The use the plaintiff intends to make of the property or right sought to be appropriated;

Fourth. If a right of way be sought, the location, general route, width and termini thereof;

Fifth. A specific description of each piece of land sought to be taken, and whether the same includes the whole or only a part of the entire parcel or tract. And in all cases where land is sought to be condemned by a municipal corporation for a public use which confers benefits on any lands, a specific description of each piece of land to which the plaintiff alleges such benefits will accrue. Plats of the lands alleged to be affected may accompany such descriptions;

Sixth. That such plaintiff has been unable to agree for the purchase of such lands or interest therein other property or right with such owner, owners or guardian, as the case may be, or that such owner is insane or an infant and has no legally appointed guardian; or is a non-resident of the state of Indiana. All parcels lying in the county, and required for the same public use, may be included in the same or separate proceedings at the option of the plaintiff; but the court or judge may consolidate or separate such

proceedings to suit the convenience of parties, and the ends of justice. The filing of such complaint shall constitute notice of such proceedings to all subsequent purchasers and encumbrances of the property, who shall be bound thereby.

Notice by Clerk—Non-Resident.

SEC. 3. Upon the filing of such complaint the clerk shall issue a notice, which shall contain the names of the parties, a general description of the whole property, a statement of the public use for which it is sought, a reference to the complaint for descriptions of the respective parcels, and requiring the defendants to appear on a day, to be fixed by the plaintiff by indorsement on the complaint, and show cause why the property described should not be condemned as prayed for in the complaint. In all other particulars the notice must be in the form of a summons in civil actions, and must be served in like manner. Upon a showing, by affidavit, that any defendant is a nonresident of the State of Indiana, or that his name or residence is unknown, publication and proof thereof shall be made as provided in section four hereof.

Service of Notice—Appraisers.

SEC. 4. Upon return of such notice showing service thereof for ten days, or proof of publication for three successive weeks in a weekly newspaper of general circulation printed and published in the English language in the county in which the land sought to be appropriated is situated, the last publication to be five days before the day set for the hearing, and it shall be the duty of the clerk of the court, in which the proceedings are pending, upon the first publication, to send to the postoffice address of each nonresident land owner, whose land will be affected by said proceedings, a copy of said notice, if the postoffice address of such owner or owners can be ascertained by inquiry at the office of the treasurer of said county, and the court or judge in vacation being satisfied of the regularity of the proceedings, and the right of the plaintiff to exercise the power of eminent domain for the use sought, shall appoint three disinterested freeholders of the county to assess the damages, or the benefits and damages, as the case may be, which the owner or owners severally may sustain, or be entitled to, by reason of such appropriation.

Objections—Pleadings—Appeal.

SEC. 5. Any defendant may object to such proceeding on the ground that the court has no jurisdiction either of the subject matter or of the person, or that the plaintiff has no right to exercise the power of eminent domain for the use sought, or for any other reason disclosed in the complaint or set up in such objections.

Such objections shall be in writing, separately stated and numbered, and shall be filed not later than the first appearance of such defendant; and no pleadings other than the complaint and such statement of objections shall be allowed in such cause, except the answer provided for in section eight of this act: *Provided*, That amendments to pleadings may be made upon leave of court. If any such objection shall be sustained, the plaintiff may amend his complaint or may appeal to the supreme or appellate court from such decision, as and in the manner that appeals are taken from final judgments in civil actions, of which appeal all the parties shall take notice and by which they shall be bound. But if such objections are overruled the court, or judge, shall appoint appraisers as provided for in this act; and from such interlocutory order overruling such objections and appointing appraisers such defendants, or any of them, may appeal to the supreme or appellate court from such decisions as and in the manner that appeals are taken from final judgments in civil actions, upon filing with the clerk of such court a bond with such penalty as the court, or judge, shall fix, with sufficient surety, payable to the plaintiff, conditioned for the diligent prosecution of such appeal and for the payment of the judgment and costs which may be affirmed and adjudged against the appellants. Such appeal bond shall be filed within ten days after the appointment of such appraisers. All the parties shall take notice of and be bound by such appeal. The transcript shall be filed in the office of the clerk of the supreme court within thirty days after the filing of the appeal bond. Such appeal shall not stay proceedings in such cause.

Appraisers—Oath—Duties.

SEC. 6. Such appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make such assessment. They shall determine and report:

First. The value of each parcel of property sought to be appropriated, and the value of each separate estate or interest therein;

Second. The value of all improvements thereon pertaining to the realty;

Third. The damages to the residue of the land of such owner or owners to be caused by taking out the part sought to be appropriated;

Fourth. Such other damages as will result to any persons or corporation from the construction of the improvements in the manner proposed by the plaintiff;

Fifth. In case the land is sought to be taken by a municipal corporation for a public use that confers benefits on any lands, the report shall also state the benefits which will accrue to each parcel of property, set opposite each description of the same,

whether described in the complaint or not. In estimating the damages specified in the foregoing first, second, third and fourth clauses, no deduction shall be made for any benefits that may result from such improvement. For the purpose of assessing compensation and damages, the right thereto shall be deemed to have accrued at the date of the service of the notice provided in section three, and its actual value, at that date, shall be the measure of compensation for all property to be actually taken, and the basis of damages to property not actually taken but injuriously affected, except as to the damages stated in the fourth clause hereof.

Payment of Damages.

SEC. 7. If the plaintiff shall pay to the clerk of such court the amount of damages thus assessed, it shall be lawful for such plaintiff to take possession of and hold the interest in the lands so appropriated for the uses stated in such complaint subject to the appeal provided for in section five of this act. But the amount of such benefits or damages shall be subject to review as provided in the next section.

Appeal—Procedure in Trial.

SEC. 8. Any party to such action aggrieved by the assessment of benefits or damages, may file written exceptions thereto in the office of the clerk of such court in vacation, or in open court if in session, within ten days after the filing of such report, and the cause shall further proceed to issue, trial and judgment as in civil actions; the court may make such further orders, and render such findings and judgments as may seem just. Such judgment as to benefits or damages shall be appealable by either party as in civil actions to the appellate or supreme court.

Costs.

SEC. 9. The costs of the proceedings shall be paid by the plaintiff, except that in case of contest, the additional costs thereby caused shall be paid as the court shall adjudge.

Damages—Failure to Pay—Forfeiture.

SEC. 10. Should the person, corporation or other body seeking such appropriation fail to pay the damages appraised within a reasonable time after the report of the appraisers is filed, in case no exceptions are filed thereto, or fail to pay the judgment and costs rendered against it in the circuit or superior court within a reasonable time after rendition, or, in case of appeal, affirmance of the judgment, or fail to take possession of such land and adopt it to the use for which it was appropriated within five years from payment of the award or judgment, such person, corporation or other body

shall, except where a fee simple is taken, forfeit all rights in and to such real estate as fully and completely as though no such appropriation had been made. An action to declare such forfeiture may be brought by any person in interest, or the question of such forfeiture may be raised by direct allegation in any subsequent proceedings by any other person, corporation or other body to appropriate such property for a public use, to which proceedings such person, corporation or other body seeking the former appropriation in lieu thereof is made a party.

Lands Already Appropriated.

SEC. 11. Any person having an interest in any land which has heretofore been or may hereafter be taken for any public use, without having first been appropriated under this or any prior law, may proceed to have his damages assessed under this act, substantially in the manner herein provided.

Repeal.

SEC. 12. All laws and parts of laws in conflict with the provisions of this act are hereby repealed: *Provided*, That this repeal shall not affect pending proceedings, but such proceedings may be completed as if this act had never been passed; and *Provided further*, That this act shall not be construed to repeal an act entitled "An act in relation to the crossings of street railroads, interurban street railroads, or suburban street railroads and railroads, and declaring an emergency," approved March 3, 1903, but such proceedings may be instituted and carried to completion under such act as though this act had not been passed.

CHAPTER 49.

AN ACT providing for protection to forests and repealing an act entitled "an act for the encouragement of forestry," which became a law without the governor's signature on March the 8, 1899, and printed at page 570 of the published acts of that year.

[H. 246. APPROVED FEBRUARY 27, 1905.]

Forestry—Setting Fire to Woods—Penalty—Prosecutor.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That any person who shall set fire to any woods belonging to another or shall place a fire on his property and permit it to spread to the woods of another shall be liable to a fine of not less than $5.00 or more than $50.00, and furthermore, shall be liable to the owner or owners for the full damages sustained by reason thereof, and it shall be the duty of the prosecuting attorney of the

county to faithfully investigate and prosecute each and every case, and any failure to so do by him shall be sufficient evidence for his removal from office, and his bondsmen shall become liable for the full damage hereof sustained.

Road Supervisor—Duty as to Fire.

SEC. 2. It shall be the duty of the township road supervisor when any woods, as in section 1, shall become on fire in his road district to employ such help as he may need to extinguish such fire, and himself and such help as he employs shall be paid by the township trustee from the general expense funds of the township at the rate of $1.50 per day for the time actually occupied in extinguishing such fire.

Repeal.

SEC. 3. That an act entitled "An act for the encouragement of forestry," which became a law without the governor's signature March 8, 1899, and printed at page 570 of the published acts of that year, be and the same is hereby repealed.

CHAPTER 50.

AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein.

[H. 153. APPROVED FEBRUARY 28, 1905.]

Coal Mining—"Mine" and "Operator" Defined.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the term "mine" as used in this act includes the workings in every shaft, slope or drift which is used, or has been used, in the mining and removing of coal from and below the surface of the ground. The term "operator," as used in this act, is hereby defined to mean any corporation, company, firm, person, proprietor, lessee, owner or occupier of any coal mine in this state or any person upon whose account the mine is operated.

Maps of Coal Mines—Refusal—Duties of Inspector.

SEC. 2. The operator of each mine shall make, or cause to be made, an accurate map or plan of the workings of such mines on a scale of not less than one inch to one hundred feet, showing the area mined or excavated, the arrangement of the haulage roads, air courses, breakthroughs, brattices, air bridges or overcasts and doors used in directing the air currents in such mine, the location and connection with such excavation of the mine of the lines of all

adjoining lands, with the names of the owners of such lands, so far as known, marked on the map. Such map shall show a complete working of the mine and, when completed, shall be certified to by the owner, agent or engineer making the survey or map to be a true and correct working map of said mine. The owner or agent shall deposit with the inspector of mines a true copy of such map within thirty days after the completion of the survey of the same, the date of which shall be shown on each copy, the original map and survey to be kept at the office of such mine open for inspection of all interested persons at all reasonable times. Such map and copy thereof shall be extended each year between the first day of May and the first day of September, and shall be filed as required in making the original survey showing the exact workings of the mine at the date of the last survey. At the request of the owner of any coal mine the owner of the land, the miners working therein or other persons interested in the workings of such mine, the inspector of mines shall make, or cause to be made, an accurate map of the workings thereof, on a scale of not less than one inch to the one hundred feet, showing the area mined or excavated and the location and connections of the lines of all adjoining lands therewith and the names of the owners of such lands so far as known. Such map shall be sworn to by the surveyor to be a correct map of the workings of such mine, and shall be kept on file in the office of the inspector of mines for examination at all times. All expenses shall be paid by the party causing such survey and map to be made. In case the operator of any mine shall fail or refuse to furnish a map as required by this law it shall be the duty of the inspector of mines to appoint a competent mining engineer to make the survey and maps and file and deposit them as required by law, and for his services he shall be entitled to a reasonable fee to be paid by the party whose duty it was to make such survey and map, and shall be entitled to a lien on the mine and machinery to the same extent as is now provided by law for other work and labor performed in and about the mines of this state. Before a mine or any part of a mine is abandoned the owner or agent shall make a survey showing the farthest extremity of the workings of such mine, and a map thereof made and filed within thirty days thereafter at the office of the county recorder in the county where such mine is located; said map shall have attached thereto the affidavit of the mining engineer making the map, and of the mine boss in charge of the underground workings of said mine. Such map shall be properly labeled and filed by the recorder and preserved as a part of the records of the land on which said mine is located, and the recorder shall receive for said filing from said owner or agent a fee of fifty cents. Upon payment of the fees the inspector of mines shall make, within a reasonable time, and deliver to the party so demand-

ing the same an accurate copy of any map or plan on file in his office. The original map or plan of any coal mine or the copy filed with the inspector of mines or a certified copy, issued under the hand and seal of such inspector, shall be evidence in any court of justice in this state. In order that maps, reports and other records pertaining to the office of inspector of mines may be properly preserved, a room in the state house shall be set aside and furnished in a suitable manner as an office for said officer.

Number of Workmen—Outlet.

SEC. 3. It shall be unlawful for any operator to allow more than ten persons to work in any mine at any one time after five thousand square yards have been excavated until a second outlet shall have been made. The said outlet or escape shaft shall be separated from the bottom of the mine by at least one hundred feet in width of natural strata, and shall be available at all times to all employes engaged in such mines, and that for every shaft used as an escapeway there shall be provided stairways at an angle of not more than sixty degrees, with landings at easy and convenient distances and with guard rails attached to each set of stairs from the top to the bottom of the same. All water coming from the surface or out of any strata in such shaft shall be conducted by rings or otherwise to prevent it from falling down the shaft and wetting persons who are descending or ascending the shaft. The operator may provide at such outlet or escape shaft a hoisting apparatus, which shall be at all times available to all persons in the mine, the same signals to be used as provided by law for use at hoisting shafts. The traveling roads or gangways to said outlet shall be separated from the hoisting shaft by at least one hundred feet of natural strata and not less than four feet in height and four feet wide and shall be kept as free from water as the average haulage roads in such mines. At all points where the passageway to the escapement shaft, or other place of exit, is intersected by other roadways or entries conspicuous boards shall be placed indicating the direction it is necessary to take in order to reach such a place of exit. It shall be unlawful to erect any inflammable structure or building or powder magazine on the surface so near the escapeway as to jeopardize the safety of the workmen in case of fire. And no boiler house shall be erected nearer than thirty-five feet of the mine opening. All explosive materials must be stored in a fire proof building on the surface, located at a safe distance from all other buildings.

Cages—Safety Catches—Riding in Cages.

SEC. 4. The rope used for hoisting and lowering in every mine shall be a wire rope, and it shall be securely fastened to the shaft

of the drum where two separate ropes are used, and at least one whole lap shall remain on the drum when the cage is at rest on the lowest caging place in the mine, and it shall be examined by some competent person every morning before the men descend into the mine. The operator of every mine shall provide a cover of ¼-inch boiler plate overhead on all carriages or cages used for lowering or hoisting persons into and out of the mines, and on the top of every shaft an improved safety gate; also, an approved safety spring on the top of every slope. Approved safety catches shall be attached to every cage used for the purpose of hoisting or lowering persons. All persons are prohibited from riding on the cages when coal or dirt is being hoisted, and in no case shall more than six men ride on any cage or car at one time.

Brake.

SEC. 5. An adequate brake shall be attached to every drum used for lowering or raising persons into or out of all shafts or slopes.

Indicator.

SEC. 6. A proper indicator shall be attached to every hoisting apparatus in addition to any mark on the rope, which shall show to the hoisting engineer the position of a cage or load in the mine.

Fencing—Lights—Speaking Tubes—Signals.

SEC. 7. The operator of every mine shall keep the top of every mine and the entrance thereof securely fenced off by vertical or flat gates, covering and protecting the mouth of such mine. Two lamps shall be kept lighted at all times when the mine is in operation, except when electric lights are used, one on each side of the shaft, not more than ten (10) feet from said shaft in each vein where men get on or off the cages. There shall be gates hung at each vein, other than the lower one, so that at all times except when coal is actually being placed on the cage or when empty cars are being taken off the cage there shall be a barrier preventing any one falling into the shaft. The operator of such mine, upon receiving notice from the inspector that one or more safety lamps are necessary to the safety of the men in such mine, shall at once procure and keep for use such number of safety lamps as may be necessary. All safety lamps used for examining mines or for working therein shall be the property of the operator and shall remain in the custody of the mine boss or other competent person, who shall clean, fill, trim, examine and deliver the same locked and in safe condition to the men when entering the mine, and shall receive the same from the men at the end of their shift. Said person or persons shall be responsible for the condition and proper use of

safety lamps while in their possession and the safe return of said lamps to the place from whence they received them. The operator of any mine shall provide and maintain a metal tube from the top to the bottom of the mine, suitably adapted to the free passage of sound, through which conversation may be held between persons at each vein and the top of the mine. There shall be a code of signals at all mines with a signal bell at the top and bottom of each mine, one bell shall signify to hoist coal or empty cage, and also to stop either when in motion; two bells shall signify that men are coming up; when return signal is received from the engineer men will get on the cage and ring one bell to hoist; four bells shall signify to hoist slowly, implying danger. The engineer's signal for men to get on the cage shall be three bells. A whistle may be used at the top of the mine instead of a bell. A copy of the above code of signals shall be printed and conspicuously posted at the top and bottom of the shaft and in the engine room.

Abandoned Mine—Fencing.

SEC. 8. The entrance of an abandoned mine shall be securely fenced off, so that no injury can arise therefrom.

Scales—Weighmen—Inspection.

SEC. 9. The operator of any mine at which the miners are paid by weight shall provide suitable and accurate scales of standard manufacture for weighing of coal which may be procured from such mines; such operator shall be required to keep United States standard weights to test said scales. At every mine where the coal mined is paid for by weight it shall be the duty of the weighman and the check-weighman to examine and balance the scales each morning, and in no case shall any coal be weighed until such scales are tested by the United States standard weights and found to be correct. Said weighman shall accurately weigh and he shall, together with the check-weighman, record the weight of each miner's car of coal delivered, which record shall be kept open at all reasonable hours for inspection of all miners or other persons pecuniarily interested in the product of such mine: *Provided*, That if the weighman and check-weighman shall disagree work may continue until the inspector of mines can be present, and any erroneous weights made during such times shall be rectified. When differences shall arise between the weighman and check-weighman, or operator, of any mine as to the correctness of the scales, the same shall be referred to the inspector of mines, whose duty it shall be to see and regulate the same at once. The inspector of mines and miners employed in the mine, the owner of the land and others personally interested in the royalty or rental of such mine shall, at all proper times, have full right of access to and examination of scales

or apparatus used for weighing coal in or about said mine, including the bank book in which the weights of coal are kept, to determine the amount of coal mined for the purpose of attesting the accuracy thereof.

Management of Engines and Cages.

SEC. 10. The operator shall not place in charge of any engine used for conveying into or hoisting out of any mine any but experienced, competent and sober engineers. The engineer in charge of such engine shall allow no person except such as may be deputed for that purpose by the owner or agent to interfere with it or any part of the machinery, and no person shall interfere, or in any way intimidate the engineer in the discharge of his duties. He shall not permit any one to loiter in the engine room and he shall hold no conversation with any officer of the company or other person while the engine is in motion, or while his attention should be occupied with the business of hoisting. A notice to this effect shall be posted on the doors of the engine house. He shall thoroughly inform himself of the established code of signals. Signals must be delivered in the engine room in a clear and unmistakable manner, and when the signal is received that men are on the cage he shall speed his engine not to exceed six hundred (600) feet per minute.

Ventilation—Mine Boss—Currents of Air—Airways.

SEC. 11. The operator of any mine shall provide and maintain hereafter for every such mine a sufficient amount of ventilation, affording not less than one hundred (100) cubic feet of air per minute for each and every person employed, and three hundred (300) cubic feet per minute for each mule, horse or other animal used in said mine, measured at the foot of the downcast, and as much more as the circumstances may require. It shall be forced and circulated around the main entries, cross entries and working places throughout the mine so that said mine shall be free from standing gas of whatsoever kind to such an extent that the entire mine shall be in a fit state at all times for men to work therein, and will render harmless all noxious or dangerous gases generated therein. Every place where fire damp is known, or supposed to exist, shall be carefully examined with a safety lamp by a competent fire boss immediately before each shift, and in making said examinations it shall be the duty of the fire boss, at each examination, to leave at the face of every place examined evidence of his presence, and it shall be unlawful for any person to enter any mine, or part of mine, generating fire damp until it has been examined by the fire boss and reported by him to be safe. The ventilation required by this act may be provided by any suitable appliance, but in case a furnace is used for ventilation purposes it shall be

built in such a manner as to prevent the communication of fire to any part of the works by lining the upcast with incombustible material for a sufficient distance up from the said furnace. But in no case shall a furnace be used at the bottom of the shaft in the mine for the purpose of producing a hot upcast of air where the hoisting appliances and buildings are built directly over the shaft. The operator shall employ a competent mine boss, who shall be an experienced coal miner, and shall keep careful watch over the ventilating apparatus and the airways, and shall see that, as the miners advance their excavations, all loose coal, slate and rock overhead are taken down or carefully secured against falling therein on the traveling and airways. He shall measure the air currents at least once a week at the inlet and outlet, and at or near the face of the entries; he shall keep a record of such measurements, which shall be entered in a book kept for that purpose, the said book to be open for inspection of the inspector of mines. He shall also on or about the first day of each month mail to the inspector a true copy of the said air measurements, stating also the number of persons employed in or about said mine, the number of mules and horses used and the number of days worked in each month. Blanks for this purpose shall be furnished by the state to the inspector and by the inspector to each mine boss. The currents of air in mines shall be split so as to give separate currents to at least every fifty (50) persons at work, and the inspector of mines shall have discretion to order a separate current for a smaller number of men if special conditions render it necessary. Whenever the inspector of mines shall find men working without sufficient air or under any unsafe conditions he shall first give the operator a notice giving the facts and a reasonable time to rectify the same, and upon his failure to do so he may order the men out of the mine or portion of said mine and at once order said mine, or part thereof, stopped until such mine or part of mine shall be put in proper condition. And the inspector of mines shall immediately bring suit against such operator for failure to comply with the provisions of this section. "Break throughs" or airways shall be made in each room and entry at least every forty-five feet. All "break throughs" or airways, except those last made near the working faces of the mine, shall be closed up and made air tight. The doors used in assisting or directing the ventilation of the mine when coal is being hauled through them, shall be opened and closed by persons designated to do the same, so that the drivers or other persons may not cause the doors to stand open, but nothing herein shall prevent the use of automatic or mechanical doors, subject to the approval of the inspector of mines. In case the roadways or entries of any mine are so dry that the air becomes charged with dust, such roadways or entries shall be regularly and thoroughly

sprinkled. And it shall be the duty of the inspector to see that this provision is carried out.

Examinations by Mine Boss—Duties—Accident.

SEC. 12. The mine boss shall visit and examine every working place in the mine, at least every alternate day while the miners of such places are, or should be, at work, and shall examine and see that each and every working place is properly secured by timbering and that the safety of the mine is assured. He shall see that a sufficient supply of timbers are always on hand at the miner's working place. He shall also see that all loose coal, slate and rock overhead wherein miners have to travel to and from their work, are taken down or carefully secured. Whenever such mine boss shall have an unsafe place reported to him, he shall order and direct that the same be placed in a safe condition; and until such is done no person shall enter such unsafe place except for the purpose of making it safe. Whenever any person working in said mine shall learn of such unsafe place he shall at once notify the mine boss thereof and it shall be the duty of said mine boss to give him, properly filled out, an acknowledgment of such notice of the following form:

I hereby acknowledge receipt of notice from.....
of the unsafe condition of the mines as follows: .....
Dated this .....day of ..... 19..

.....
Mine Boss.

The possession by the person of such written acknowledgment shall be proof of the receipt of such notice by said mine boss whenever such question shall arise; and upon receipt of such notice said mine boss shall at once inspect such place and proceed to put the same in good and safe condition. As soon as such unsafe place has been repaired to the approval of said mine boss, he shall then give permission for the men to return to work therein, but no person shall return to work therein until such repairs have been made and permission given. Whenever any accident whatsoever has occurred in any mine which shall delay the ordinary and usual workings of such mine for twenty-four consecutive hours, or has resulted in such injury to any person as to cause death or require the attendance of a physician or surgeon, it shall be the duty of the person in charge of such mine to notify the inspector of mines of such accident without delay, and it shall be the duty of said inspector to investigate and ascertain the cause of such accident as soon as his official duties will permit: *Provided*, That if loss of life shall occur by reason of any such accident said inspector shall immediately, with the coroner of the county in which such accident may have occurred, go to the scene of the accident. They shall

investigate and ascertain the cause of such loss of life and have power to compel the attendance of witnesses and administer oaths or affirmations to them and the costs of such investigations shall be paid by the county in which the accident occurred, as costs of coroner's inquests are now paid.

Traveling Way—Outlet—Provision for Injured.

SEC. 13. There shall be cut at the bottom of the shaft a traveling way sufficiently high and wide to enable persons to pass the same in going from one side to the other, without passing over or under the cage. On all single track hauling roads wherever hauling is done by power, and on all gravity or incline planes in mines, upon which the persons employed in the mine must travel on foot to and from their work, places of refuge must be provided in the side wall, not less than three (3) feet in depth, measuring from side of car, and four feet wide, and not more than twenty (20) yards apart, unless there is a clear space of at least three (3) feet between the side of the car and the side of the wall, which space shall be deemed sufficient for the safe passage of men. On all hauling roads in which the hauling is done by draft animals, whereon men have to pass to and from their work on foot, places of refuge must be cut in the side wall at least two and one-half ($2\frac{1}{2}$) feet deep, measuring from the side of the car, and not more than twenty yards apart, but such places shall not be required in entries from which rooms are driven at regular intervals not exceeding twenty yards, and wherever there is a clear space of two and one-half ($2\frac{1}{2}$) feet between the car and the rib, such places shall be deemed sufficient for the safe passage of men. All places of refuge shall be kept clear of obstructions and no material shall be stored therein, excepting in cases of emergency, nor be allowed to accumulate therein. At every mine where ten or more men are employed inside, it shall be the duty of the operator thereof to keep always on hand, readily accessible and near the mouth of the mine, a properly constructed and comfortable stretcher; a woolen and waterproof blanket; a roll of bandages in good condition for immediate use for bandaging and dressing wounds of any one injured in such mine; a supply of linseed oil, lime, camphor, turpentine, antiseptic gauze, dressing and surgeon's splints for the dressing of broken bones; also to provide comfortable apartment near the mouth of the mine, in which any one so injured may rest while awaiting transportation to his home, and to provide for the speedy transportation of any one injured in such mine to his home.

Approaching Abandoned Workings—Water or Gas.

SEC. 14. When approaching abandoned workings which are supposed to contain dangerous accumulation of water or gases, the

excavation approaching such places shall not exceed eight feet in width, and there shall be constantly kept, at a sufficient distance (not less than three yards in advance) one bore hole near the center of the workings, and sufficient flank bore holes on each side. When two or more veins are worked in the same mine they shall be so operated that no danger will occur to the miners working in either vein.

Timber Supply—Blackboard.

SEC. 15. The operator of any mine shall keep a sufficient supply of timber at the mine, and shall deliver all props, caps and timber (of proper lengths) to the rooms of the workmen, when needed and required, so the employes may, at all times, be able to properly secure the workings from caving in. Every operator operating mines in this state shall place a blackboard near the mine entrance sufficiently large, stating thereon in figures the lengths of all timber in use in said mine. The miners shall register thereon, when needing timber for securing their working places, their respective numbers, under the figures indicating the proper lengths of timber required.

Injury to Safety Appliances.

SEC. 16. Any person who shall, knowingly, injure or interfere with any safety lamp, air course, or with any brattice or obstruct or throw open doors, or disturb any part of the machinery, or ride upon a loaded car or wagon in any mine, or do any act whereby the lives or health of the persons or the security of the mines or machinery are endangered shall be deemed guilty of a misdemeanor.

Explosives—Blasting or Shooting—Tools.

SEC. 17. Whenever any person is about to open a keg or box containing powder, or other explosives, he shall place and keep his light at least five feet distant from said explosive, and in such a position that the air current can not carry sparks to it; and no person shall approach nearer than five feet to any open box or keg containing powder or other explosives with a light or pipe or any other thing containing fire. In any mines of this state, where coal is mined by "blasting off the solid" it shall be unlawful for any miner or other person to drill any hole, for the purpose of blasting, more than one foot past the end of his cutting or "loose end" or to prepare a "shot" in such a way that the distance from the hole to the loose end shall be more than five feet, measured at right angles to the direction of the hole. In the process of charging or tamping a hole, no person shall use any iron or steel needle or tool, except as herein provided. The needle used in preparing the blast shall be made of copper, and the tamping bar shall be tipped with

at least five inches of copper. No coal dust or any material that is inflammable, or that may create a spark, shall be used for tamping, and some soft material shall be placed next to the cartridge or explosive.

Illuminating Oils.

SEC. 18. Only a pure animal or vegetable oil, or other oils that shall be as free from smoke as a pure animal or vegetable oil, and not the product or by-product of rosin, and which shall, in inspection, comply with the following list, shall be used for illuminating purposes in the mines of this state: All such oils must be tested by the state supervisor of oil inspection or his deputies at 70 degrees Fahrenheit. The specific gravity of the oil must not exceed 24 degrees. The test of the oil must be made in a glass jar one and five-tenths (1 5-10) inches in diameter by seven (7) inches in depth. If the oil be above 45 degrees and below 70 degrees Fahrenheit, it must be raised to a temperature of about 80 degrees Fahrenheit, when, after being well shaken, it shall be allowed to cool gradually to a temperature of 70 degrees Fahrenheit before being finally tested. In testing the gravity of the oil the hydrometer must be, when possible, read from below, and the last line which appears under the surface of the oil shall be regarded as the true reading. In case the oil under test should be opaque or turbid, one-half of the capillary attraction shall be deemed and taken to be the true reading. When the oil is tested under difficult circumstances, an allowance of one-half degree may be made for possible error before condemning the oil for the use in the mine. All oil sold to be used for illuminating purposes in the mines of the state shall be contained in barrels or packages, branded conspicuously with the name of the dealer, the specific gravity of the oil and the date of shipment. Any individual, firm, corporation or company that sells or offers for sale any oil other than provided in section 18 to be used for illuminating purposes in coal or other mines of the state, or the individual, firm, corporation, company or person having in charge the operation or running of any mine, who permits the use in his or their mine of any oil for illuminating purposes other than provided for in section 18, or any employe in any mine of this state, who uses with a knowledge of its character, a quality of oil other than is provided for in section 18, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five ($5) dollars nor more than twenty-five ($25) dollars.

Check-Weighman.

SEC. 19. Whenever the mining of coal is paid for by weight, the miners employed in mining the same shall have the right of

selecting and keeping in the weigh office, or at the place of weighing the coal, a check-weighman, who shall be vested with the same rights as described in section 9 of this act, said check-weighman to be paid by said miners.

Inspector of Mines—Appointment—Assistants—Salaries—Duties.

SEC. 20. The state geologist shall appoint an inspector of mines, who shall hold his office for two years or until his successor shall be appointed and qualified, and he shall require all applicants for such office to pass an examination touching their qualifications and fitness to discharge the duties thereof before making such appointment. And the state geologist is hereby empowered to make such rules and regulations in conducting such examinations as in his judgment will test the competency and fitness of such applicants: *Providing, further*, That the state geologist shall give a certificate of appointment to the person appointed, which certificate shall entitle such appointee, when qualified, to do and perform all duties of his office as inspector of mines. The inspector of mines shall appoint two assistants, who have each passed such examination touching their qualifications for such position as may be prescribed by him. The inspector of mines shall execute certificates of such appointments and deliver the same to each of such assistants, who shall thereupon qualify by each executing a bond and taking an oath in the manner and form provided by this act, and when so qualified, each such assistant is authorized and empowered to draw his salary and to perform all duties of his office as prescribed by this act. Each of such assistants shall be subject to orders and directions of the inspector of mines, and, in pursuance of such orders and directions, is empowered to do any and all acts and to perform all duties incumbent upon the inspector of mines. They shall each make a detailed and itemized report as often as required, to the inspector of mines, of the work performed by him and shall hold his office subject to removal at any time by such inspector of mines for cause. The inspector of mines and his assistants, shall be residents of the State of Indiana for at least five (5) years immediately preceding their appointment to office, and shall be practical miners of at least ten years' experience in actual mining, and no person shall be eligible to hold the office of inspector of mines or assistant inspector of mines who is or may be pecuniarly interested in any coal mine within this state either directly or indirectly. The inspector of mines and his assistants before entering upon the duties of their offices, shall each execute a bond payable to the State of Indiana, with good and sufficient surety, in the sum of one thousand dollars ($1,000), and shall take and subscribe to an oath to be endorsed upon the back of each bond for the faithful performance of the duties of the office, which bond

shall be approved by and filed with the secretary of state. The inspector of mines shall receive as compensation for his services the sum of one thousand eight hundred dollars ($1,800) per annum, and each assistant inspector of mines shall receive as compensation for his services the sum of one thousand two hundred dollars ($1,200) per annum. And for expenses they shall receive the sum actually and necessarily expended for that purpose, in the discharge of their official duties, all to be paid quarterly by the state treasurer from funds in the state treasury not otherwise appropriated. All expense bills shall be sworn to and shall show the items of expense in detail. Said inspector of mines may also appoint a secretary to assist him in the discharge of his duties, who shall receive a salary of six hundred dollars ($600) per annum. It shall be the duty of the inspector of mines appointed under this act to enter, examine and inspect any and all coal mines, and the works and machinery belonging thereto, at any reasonable time, by day or by night, but so as not to hinder or obstruct the working of any coal mine more than is reasonably necessary in the discharge of his duties; and the operator of such coal mine is hereby required to furnish the necessary facilities for such entry, examination and inspection. Should the operator fail or refuse to permit such inspection or furnish such facilities, the operator so failing shall be deemed to have committed a misdemeanor, and it is hereby made the duty of such inspector to charge such operator with such violation, under oath, in any court having jurisdiction. The inspector appointed under this act shall devote his entire time and attention to the duties of his office. He, or his assistants, shall make personal inspection, at least twice each year, of all coal mines in this state, and shall see that every precaution is taken to insure the health and safety of the workmen therein employed, that the provisions and requirements of this act are faithfully carried out, and that the penalties of the law are enforced against all who wilfully disobey its requirements. He shall also collect and tabulate the following facts: The number and thickness of each vein or stratum of coal and their respective depths below the surface, which are now worked or may hereafter be worked; the kind or quality of coal; how the same is mined, whether by shaft, slope or drift; the number of mines in operation in each county, the owners thereof; the number of men employed in each mine, and the aggregate yearly production of tons from each mine; estimate the amount of capital employed at each mine; and give any other information relative to coal and mining that he may deem necessary; all of which facts, so tabulated, together with a statement of the condition of mines as to safety and ventilation, he shall freely set forth in an annual report to the state geologist, together with his recommendation as to such other legislation on the subject of min-

ing as he may think proper. It shall be the duty of the inspector of mines, in addition to his other duties, to examine all scales used at any mine for the purpose of weighing coal taken out of said mine. The scales shall be tested by sealed weights; the same shall be furnished to said inspector of mines by the auditor of state on requisition, the cost of which shall be audited by the auditor of state, and paid out of any money in the state treasury not otherwise appropriated. And on inspection, if the scales are found incorrect and, after written notice by the inspector of mines it shall be unlawful for any operator to use or suffer the same to be used, until the scales are adjusted to weigh correctly. The provisions of this law shall apply to all mines except to mines employing less than ten men. And it shall be the duty of the inspector of mines to see to the strict enforcement of all laws relating to mines and mining, to investigate all violations of the law relating thereto, file complaints and make affidavits against such violators before the proper court of justice and to see to the enforcement of all penalties prescribed by the statutes of the state for disobedience to its provisions relating to mines and mining, and failure to do so may be sufficient cause for his removal from office. The inspector of mines shall make an annual report to the state geologist of all matter now required by law to be reported, which report shall be published with the report of the state geologist, and shall in every respect comply with the laws pertaining to the inspection of mines.

Examinations by Inspector—Places—Fee—Notice.

SEC. 21. It shall be the duty of the inspector of mines to hold examinations for certificates of service and competency in each of the cities of Brazil, Terre Haute, Washington, and Evansville, and to publish notice of such examinations, stating the time and place where examinations are to be held, and shall make and publish rules and regulations under which such examination shall be conducted. For the purpose of providing for the expense of holding the examinations and issuing the certificates herein provided for, each applicant, before entering upon examination, shall pay the inspector of mines one dollar, a receipt for which must be endorsed upon each certificate before it becomes effective. Examinations for certificates of service or competency shall be public and open to all citizens of the United States, and at least fifteen days' notice of such examination shall be given by publication in a newspaper published in the city where such examination is to be held. No certificate shall be issued to any person entitling him to serve in more than one of the capacities set out in this section, but two or more certificates may be issued to the same person on proper examination.

Certificates of Competency.

SEC. 22. Certificates of competency shall be issued by the inspector of mines to any person who shall prove satisfactory upon examination, either written or oral, or both, as may be prescribed by such inspector, that he is qualified by experience and technical knowledge to perform the duties of either mine boss, fire boss, or hoisting engineer. Certificates of service shall be issued by the inspector of mines to any person who shall furnish satisfactory proof that he has been engaged as, and has successfully discharged the duties of mine boss, fire boss, or hoisting engineer at mines in this state for three years preceding the granting of such certificate. It shall be unlawful for any person to serve in the capacity of mine boss, fire boss, or hoisting engineer at any mine without having first received from the inspector of mines a certificate of service or competency. It shall be unlawful for any operator of any mine in this state to employ any person in the capacity of mine boss, fire boss, or hoisting engineer unless such person has a certificate of service or competency from the inspector of mines.

Monthly Report to Inspector.

SEC. 23. The operator of every mine shall be and is hereby required to report to the inspector of mines on or before the 15th day of each calendar month the name of the person in charge of such mine, the number of tons of coal produced at such mine during the preceding month, the amount of wages paid employes during such month, the amount of money expended for improvements during said month, together with such other information as may be necessary to enable said inspector to prepare his annual report as required by law.

Who May Not Be Employed.

SEC. 24. No male person under the age of fourteen years or female of any age shall be permitted to enter any mine in this state for the purpose of employment therein, and the parents or guardians of boys shall be required to furnish an affidavit as to the age of said boy or boys when there is any doubt in regard to their age, and in all cases of minors applying for work the operator of any mine shall see that the provisions of this section are not violated.

Wages—Transfer—Payment by Check.

SEC. 25. Whenever any merchant or dealer in goods or merchandise, or any other person, shall take from any employe or laborer for wages, who labors in or about any mine in this state, an assignment of such employe's wages, earned or unearned, due or to become due, or shall take from such employe or laborer any order on his employer for any such wages, and shall issue or give

to any such employe or laborer in consideration of or in payment for any such assignment or transfer or order, any check, other than a check on a solvent bank, or any ticket, token or device payable or redeemable, or purporting to be payable or redeemable, or agreed to be payable or redeemable, in goods, wares, or merchandise or anything other than lawful money of the United States, such check, ticket, token or device shall at once become due and payable in lawful money of the United States, for and to the extent of the full amount of the wages assigned or relinquished for it, and the holder of such checks, ticket, token or device shall, after demand, have the right to collect the same, with reasonable attorney's fees, by suit in any court of competent jurisdiction.

Liens—Labor or Royalty.

SEC. 26. The miners and other persons employed and working in and about the mines and others interested in the rental or royalty on the coal mined therein, shall have a lien on said mine and all machinery and fixtures connected therewith, and everything used in and about the mine, for work and labor performed within two months, and for royalty on the coal mined for any length of time not exceeding two months; and such liens shall be paramount to and have priority over all other liens, except the liens of the state taxes; and such liens shall have priority, as against each other, in the order in which they accrued, and for labor over that for royalty on coal. Any person to acquire such lien shall file in the recorder's office of the county where the mine is situated, within sixty (60) days from the time the payment became due, a notice of his intention to hold a lien upon such property for the amount of his claim, stating in such notice the amount of his claim, and the name of the coal works, if known, or any other designation describing the location of said mine; and the recorder shall record the said notice, when presented, in a book used for recording mechanic's liens, for which the recorder shall receive a fee of twenty-five cents. Suits brought to enforce any lien herein created shall be brought within one year from the date of filing same in the recorder's office; and all judgments rendered on the foreclosure of such liens shall include the amount of the claim found to be due, with the interest on same from the time due, and with a reasonable attorney's fee, the judgment to be collected without relief from valuation, appraisement or stay laws.

Injuries—Liability.

SEC. 27. For any injury to person or persons or property occasioned by any violation of this act or any willful failure to comply with any of its provisions, a right of action against the operator shall accrue to the party injured for the direct injury sustained

thereby; and in case of loss of life, by reason of such violation, a right of action shall accrue to widow, children, or adopted children, or to the parents or parent, or to any other person or persons who were before such loss of life dependent for support on the person or persons killed, for like recovery of damages for the injury sustained by reason of such loss of life or lives.

Penalties.

SEC. 28. Any willful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this act, on the part of the person or persons herein required to do them, or any violation of the provisions or requirements hereof, or any attempt to obstruct or interfere with any inspector of mines in the discharge of the duties herein imposed upon him, or any refusal to comply with the instructions of an inspector of mines by authority of this act, shall be deemed a misdemeanor punishable by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail for a period not exceeding six months, or both, at the discretion of the court: *Provided,* That the foregoing shall not apply to sections in this act which have special penalties provided for them.

Repeal.

SEC. 29. All laws or parts of laws conflicting with the provisions of this act are hereby repealed.

CHAPTER 51.

AN ACT to amend section 1 of "an act authorizing hydraulic companies to appropriate lands to their use upon paying the assessed value thereof, and providing for such assessment," approved March 9, 1867.

[H. 302. APPROVED FEBRUARY 28, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 1 of an act entitled "an act authorizing hydraulic companies to appropriate lands to their use upon paying the assessed value thereof, and providing for such assessment," approved March 9, 1867, be, and the same is hereby amended to read as follows:

Hydraulic Company—Survey—Appropriation—Electricity.

That any hydraulic company incorporated under any general law of this state, whose purpose it is to create a water power by the erection of a dam across any river in this state of sixty-five feet in

width and upwards, may enter upon any lands (being responsible for any damage that may accrue by such entry) for the purpose of examining and surveying the grounds upon which such company may desire to abut such dam on both sides of such river, not exceeding two (2) acres at either end of such dam, and also examine and survey all lands that may be overflowed by the erection of such dam, not exceeding one hundred (100) acres, and also to examine and survey all lands that may be necessary for such company to use for a lock around such dam, and for a race or races, and aqueducts to convey the water from such dam to a convenient place for its use as power to propel machinery, and sufficient grounds, not exceeding ten (10) acres, upon which to use said water power for the purposes aforesaid, and such company is hereby authorized to appropriate so much of said lands as it may deem necessary for the purposes aforesaid. And if any hydraulic company shall develop from its hydraulic power electricity for heat, light or power, or electricity for the use of any city, town, other public corporation, or for any other public use which may require the use of poles and wires, or conduits for wires, to convey electricity for heat, light or power, and other uses, such company in like manner is authorized to enter upon lands and make such surveys and appropriate lands necessary for right-of-way for its lines of poles and wires, or for conduits for its wires, to convey its electricity to any city or town or other place, for the public use thereof.

CHAPTER 52.

AN ACT to regulate and in certain cases to prohibit the manufacture, sale, keeping, keeping for sale, owning, or giving away of cigarettes, cigarette paper, cigarette wrappers and other substitute for the same, providing penalties for the violation thereof, and repealing all laws in conflict therewith.

[S. 51. APPROVED FEBRUARY 28, 1905.]

Cigarettes, Etc.—Manufacture, Sale or Gift Illegal.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person, by himself, clerk, servant, employe or agent, directly or indirectly, upon any pretense or by any device, to manufacture, sell, exchange, barter, dispose of or give away, or keep for sale, any cigarettes, cigarette paper or cigarette wrappers, or any paper made or prepared for the purpose of being filled with tobacco for smoking; or keep or own, or be in any way concerned, engaged or employed in owning or keeping any such cigarettes, cigarette paper or wrappers, and

any person for violation of the same shall be guilty of a misdemeanor, and upon conviction shall, for the first offense pay a fine of not less than twenty-five dollars nor more than fifty dollars and cost of prosecution, and stand committed to the county jail until such costs are paid; and for the second and each subsequent offense he shall pay, upon conviction thereof, a fine of not less than one hundred dollars nor more than five hundred dollars and the costs of prosecution, or be imprisoned in the county jail not to exceed six months: *Provided*, That the provisions hereof shall not apply to the sales of jobbers doing an interstate business with customers outside the state.

Repeal.

SEC. 2. All laws and parts of laws in conflict with this act are hereby repealed.

CHAPTER 53.

AN ACT providing for the creation of a railroad commission, the appointment and compensation of the members thereof, prescribing the powers and duties of such commission and its members, prescribing certain duties and obligations of railroad companies, express companies and other common carriers, defining certain misdemeanors and prescribing penalties, providing for the collection of penalties by civil action from railroad companies and other common carriers by the state in cases therein provided for, appropriating money to carry out its provisions, providing for a review of the decisions of the commission and conferring jurisdiction on certain courts to hear and determine such proceedings, and repealing all laws and parts of laws in conflict therewith.

[S. 22. APPROVED FEBRUARY 28, 1905.]

Railroad Commission—Appointment—Oath—Salary, Etc.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That a railroad commission is hereby created, to be composed of three persons, to be appointed by the governor, who shall, within sixty days after the taking effect of this act, appoint three persons as such commissioners, whose term of office shall begin on the Monday next following such appointment, one of whom shall hold office for a term of four years, one for a term of three years and one for a term of two years or until their successors shall be appointed and qualified. Thereafter at the expiration of the term of office of each of such commissioners, his successor shall be appointed by the governor for a term of four years, provided that at no time shall there be more than two of said commissioners members of the same political party.

(a) The persons so appointed shall be resident citizens of this state, and qualified voters under the constitution and laws, and not less than thirty years of age.

(b) No commissioner hereunder shall hold any office under the government of the United States or of this state, or of any other state government; and shall not, while such commissioner, engage in any occupation or business inconsistent with his duties as such commissioner.

(c) The governor may remove any commissioner at any time for inefficiency, neglect of duty or malfeasance in office, but he shall give to such commissioner a copy of the charges against him and an opportunity of being heard in his defense. The governor shall fill any vacancy by appointment and the person so appointed shall fill out the unexpired term of his predecessor.

(d) Before entering upon the duties of his office, each of said commissioners shall take and subscribe and file with the secretary of state an oath of office in the following form: I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the State of Indiana; and that I will, to the best of my ability, faithfully and justly discharge the duties of the office of railroad commissioner and enforce the provisions of all laws of the State of Indiana which declare and define my duties, and of all laws of said state the enforcement of which devolves upon the railroad commission of Indiana. Each of said commissioners shall file in the office of the secretary of state a good and sufficient bond in the sum of ten thousand dollars to be approved by the governor for the faithful discharge of his duties.

(e) Each of said commissioners shall receive an annual salary of four thousand dollars ($4,000.00), payable in the same manner that salaries of other state officers are paid.

(f) It shall be unlawful for any member of said commission, their secretary, or any of their clerks and employes, to receive any free transportation, reduced rates for transportation or any other perquisite, gift or emolument from any railroad company or other party interested in railroad transportation during the term of their respective office or employment, and any person violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not less than fifty dollars nor more than one thousand dollars, and upon conviction thereof of any commissioner, the governor shall declare his said office to be vacant and a successor shall be selected as elsewhere provided by this act in case of vacancy.

Organization—Secretary—Clerk—Salary—Office Expenses.

SEC. 2. The commissioners appointed as hereinbefore provided shall meet at Indianapolis on the Thursday next following the

commencement of their term of office and organize, and select one of their number chairman of said commission. A majority of said commissioners shall constitute a quorum to transact business. Said commission may appoint a secretary at a salary of not more than twenty-five hundred ($2,500) dollars per annum, and may appoint one clerk at a salary of not more than fifteen hundred ($1,500) dollars per annum, and such other persons as may be necessary to aid the commission in enforcing the provisions of this act. The secretary shall keep a full and correct record of all the transactions and proceedings of said commission, and perform such duties as may be required by the commission. The commission shall have power to make all needful rules for their government and for their proceedings. They shall be known collectively as "railroad commission of Indiana," and shall have a seal with the words "railroad commission of Indiana" engraved thereon. The said commission shall be furnished with the necessary office rooms in the state capitol building at Indianapolis and with necessary furniture, stationery and other supplies needed in the discharge of its duties. All the necessary expense of said commission in carrying into effect all the provisions of this act, including salaries of its appointees and employes other than traveling expenses, shall be audited and approved by the auditor of state and paid by the treasurer of state out of any funds in his hands not otherwise specifically appropriated. The members of said commission, its secretary and clerk, shall be entitled to receive from the state their actual necessary traveling expenses, which shall include the cost only of transportation and hotel bills while traveling on the business of the commission, which amount shall be paid by the treasurer of state on the order of the governor upon an itemized statement thereof, sworn to by the party who incurred such expense in traveling, and after the same shall have been approved by the commission.

(a) Said commission may hold sessions at any place in this state when deemed necessary to facilitate the discharge of its duties.

Powers and Authority.

Sec. 3. The power and authority is hereby vested in the railroad commission of Indiana, and it is hereby made its duty as hereinafter provided to supervise all railroad freight and passenger tariffs, and to adopt all necessary regulations to govern car service and the transfer and switching of cars from one railroad to another at junction points or where entering the same city or town, and to supervise charges therefor; to require and supervise the location and construction of sidings and connections between railroads; to supervise the crossing of the tracks and sidetracks of railroads by other railroads now in process of construction or extension, or

which may be hereafter constructed or extended, and to prescribe the terms and conditions and manner in which such crossings shall be made; and the character thereof, whether at grade or over or under grade, and the authority now vested in the auditor of state under the laws of this state with reference to the crossings of railroads by other railroads, or by railroads operated by electricity, and the installation and maintenance of interlocking appliances at such crossings is hereby vested in the commission; to supervise and regulate private car line service and private tracks where such tracks are operated in connection with any railroad in this state, or share in the rates or earnings of any common carrier subject to the provisions of this act; to correct abuses and prevent unjust discrimination and extortion in the rates of freight and passenger tariffs on the different railroads, and to enforce the same by proceedings for the enforcement of penalties provided by law through courts of competent jurisdiction.

(a) The classification of freight adopted by the railroads shall be uniform and shall apply to and be the same for all railroads subject to the provisions of this act.

(b) The said commission shall have power and it shall be its duty, as hereinafter provided, upon the failure of the railroad companies so to do, to fix and establish for all or any connecting lines of railroads in this state reasonable joint rates of freight, transfer and switching charges for the various classes of freight and cars that may pass over two or more lines of such railroads.

(c) If any two or more connecting railroad companies shall fail to agree upon a fair and just division of the charges arising from the transportation of freights, passengers or cars over their lines, the commission shall, as hereinafter provided, fix the pro rata part of such charges to be received by each of said connecting lines.

(d) The commission shall have power as hereinafter provided and it shall be its duty from time to time, to alter, change, amend or abolish any classification or rate established by any railroad company or companies whenever found to be unjust or discriminative, and such amended, altered or new classifications or rates shall be put into effect by said railroad company or companies.

(e) The commission may adopt and enforce such rules, regulations and modes of procedure as it may deem proper, to hear and determine complaints that may be made against the classifications or the rates maintained by the common carriers subject to the provisions of this act, or against the rules, regulations and determinations of the commission.

(f) The commission shall enforce as hereinafter provided, reasonable and just rates of charges for each railroad company subject hereto for the use or transportation of loaded or empty cars on its roads; and may so enforce for each railroad, or for all

railroads alike, reasonable rates for storing and handling of freight, and for the use of cars not unloaded after forty-eight hours' notice to the consignee, not to include Sundays or legal holidays.

(g) The commission shall enforce reasonable rates as hereinafter provided for the transportation of passengers over each or all of the railroads subject hereto, which rates shall not exceed the rates fixed by law. The commission shall have power to enforce reasonable rates, tolls or charges for all other service performed by any railroad subject hereto.

(h) The provisions of this section shall be construed to mean that said commission shall have power to correct, alter, change or establish rates, charges, classifications, rules or regulations where the railroads or express companies, respectively, or any of them, fail to have just and reasonable and undiscriminative rates, charges, classifications, rules and regulation[s] in operation and effect, and shall exercise such power only where some person or corporation injuriously affected by such rate, charge, classification, rule or regulation, shall have filed with said commission, a written verified complaint setting forth the unreasonable character of the rate, charge, classification, rule or regulation complained of; and when any such complaint shall have been filed, the said commission shall have power to proceed to hear and determine said complaint and consider the reasonableness of such rate, charge, classification, rule or regulation, after the notice provided for in section 4 of this act has been given; and after such hearing shall make such corrections, alterations, changes or new regulations, or any part thereof, as may be necessary to prevent injustice and discrimination to the party complaining: *Provided*, That when any such rate, charge, classification, rule or regulation shall have been changed, or modified, by any order of said commission, such order shall operate for the benefit of all persons or corporations, situated similarly with said complaining party and on the line of said railroad complained of: *Provided, further*, That at any hearing provided for in this section, all oral testimony heard by the commission shall be taken down in shorthand and all written and documentary evidence heard or considered, and all pleadings and other papers pertaining to such hearing shall be kept on file in the office of the commission, so that a complete transcript of all such proceedings, including all the evidence, may be made whenever required.

Revision of Rates—Notice—Hearing—Rules—Powers.

SEC. 4. Before any rates or charges of railroads or express companies shall be revised or changed under the provisions of this act, and before any order shall be made by the said railroad commission changing the rules or regulations of any such company respecting car service, the transfer or switching of cars from one railroad to

another, or respecting the location or construction of sidings and connections between roads or respecting joint rates or charges by two or more of such companies, the said commission shall give to the company or companies affected by such proposed order or revision not less than twenty days' written notice of the time and place where such rates or charges or the matters involved in said proposed order shall be considered; and such company shall be entitled to a hearing at the time and place specified in such notice and shall have process to enforce the attendance of its witnesses. All process herein provided for shall be served as in civil cases.

(a) The commission shall have power to adopt rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings of railroad companies and other parties before it, in the consideration of rates, orders, charges and other acts required of it under this law: *Provided,* That all persons interested in the result of any such investigation or hearing shall have the right to be present.

(b) The chairman and each of the members of said commission for the purposes mentioned in this act shall have power to administer oaths to witnesses appearing before the commission in the course of any hearing or investigation provided for by this act. Subpoenas commanding the attendance of witnesses and the production of papers, bills of lading or other evidence of shipment, way bills, books, accounts and other documents deemed necessary by the commission in any proceeding pending before it may be issued by said commission, signed by its secretary and served by reading or by copy, and such subpoenas shall be served and the attendance of all such witnesses enforced as provided for in section 12 of this act.

When Actions Not to Be Controverted.

SEC. 5. In all actions between private parties and railroad companies or private car line companies brought under this law, the rates, charges, orders, rules, regulations and classifications approved by or made by said commission before the institution of such action shall be held, deemed and accepted to be reasonable, fair and just, and in such respects shall not be controverted therein except as hereinafter provided until finally found otherwise in a direct action brought for that purpose in the manner prescribed by sections 6, 6½ and 7 hereof.

Appeals to Appellate or County Courts—Appeal Proceedings.

SEC. 6. If any railroad company or other corporation or party in interest shall be dissatisfied with any rate, classification, rule, charge or general regulation made, approved, adopted or ordered by the commission, such dissatisfied company or party may, within

sixty days after any such action has been taken by the commission, procure from the secretary of the commission, whose duty it shall be to furnish the same, a complete transcript of all the proceedings of the commission relative thereto, and if he or it so desires, a copy of all the evidence heard or considered by the commission at the hearing at which such action or decision was made, which evidence shall be incorporated into such transcript, and such dissatisfied company or party may file said transcript, with a concise written statement of its or his causes of complaint against the action of the commission, in the office of the clerk of the appellate court of Indiana within thirty days after procuring the same, and not later than ninety days after the action of the commission complained of has been spread upon its records. Said complaining company or party shall, at the time of filing such transcript, give or cause to be given to said commission written notice thereof, and shall, within five days thereafter, file proof of such notice in the office of said clerk of the appellate court, who shall, ten days thereafter, or upon the appearance of said commission to said appeal, place said cause upon the docket of the said appellate court for hearing and determination. The commission shall be made a party to such proceeding in the appellate court, and shall defend the same. All such causes shall be given precedence over all other civil causes in said appellate court, and shall be heard and determined upon the transcript filed as aforesaid, as speedily as possible to the end that public interests may not suffer by reason of such appeal. Jurisdiction to hear and determine such appeals, and power to adopt rules of procedure to facilitate the speedy determination thereof not inconsistent with this act, are hereby conferred upon the appellate court of Indiana. The appellate court shall have power to affirm the action of the commission appealed from, or to change, modify or set aside the same as justice may require. The decision of the appellate court in any such matter shall be final, and said commission shall keep copies of all such findings and judgments on file in its office. If any such railroad company, or other corporation or party in interest shall be dissatisfied with any order or regulation of said commission respecting the location or construction of sidings, switches or connections between railroads, or the crossing of one railroad by another, or the transfer and switching of cars at junction points, or the regulation of private tracks, such dissatisfied company or party may, within thirty days after any such order or regulation has been made, file a written petition in the circuit or superior court of the county wherein any such siding, switch, connection, crossing, junction point or private track is situate, setting forth therein the particular cause or causes of objection to the order or regulation of the commission, complained of. The said commission shall be made a defendant to such

proceeding, and shall have at least ten days' written notice of the intention of said company or party to file such petition, which notice shall set forth the date on which the petition shall be filed, and the court wherein it shall be filed, and jurisdiction is hereby conferred upon all such circuit and superior courts to hear and determine such proceedings. After the filing of such petition, and upon proof of the service of the said notice, or upon the appearance of said commission to such petition, the said proceedings shall be set down for hearing without delay, and shall be heard and determined as a suit in equity, without a jury. Any such court shall have power to affirm the action of said commission so complained of or to change, modify, or set aside the same as justice may require. Either party to said proceeding shall have the right to appeal from the finding and judgment therein to the appellate court of Indiana in the same manner that appeals are prosecuted in civil cases from judgments of circuit and superior courts in such cases.

Commission's Orders—When in Force—Indemnity Bond.

SEC. 6½. All orders of the commission made and entered upon its records as herein provided respecting rates, charges, rules, regulations and classifications, or respecting the location or construction of sidings or connections between railroads, or to the crossing of one railroad by another, or the transfer and switching of cars at junction points, or the regulation of private tracks, shall be operative and in full force at and from the time fixed therefor by the commission as hereinafter provided, until any such order shall have been changed, modified or set aside by a circuit, superior or appellate court under the proceedings provided for in section 6 of this act: *Provided, however,* That if at the time of filing a transcript in the office of the clerk of the appellate court of Indiana, as provided in section 6, appealing from the action of said commission in fixing or changing any rate or charge of any common carrier for the transportation of freight, or passengers, the railroad company or other common carrier, filing such petition, shall also file a bond in such amount as shall be fixed by said court and with surety to the satisfaction of such court, conditioned for the payment to the commission for the use of all persons who may be injuriously affected by such proceeding, of any and all amounts in which any of such persons may be damaged thereby, and for the refunding to each shipper or passenger of all over-payments of freight or passenger charges made by him to such complaining carrier pending such proceeding, and for the prompt payment of all penalties provided for herein, to which any or all such shippers may be entitled, then, and in such case the said complaining carrier may charge to and collect from all shippers of freight and all

passengers on its said line or lines, the same rate for freight received by it and transported, or the same passenger rate that existed before the making of the order by the said commission which is complained of in said proceeding until such proceeding is finally determined by said court.

(a) Any railroad company or other carrier of passengers, which has filed the transcript and bond herein provided for, and which under the provisions of this section shall continue to charge the same rates for the transportation of passengers as existed and was in force prior to the order of the commission complained of, shall execute to each and every person from whom it shall collect such rates, during the pendency of the said proceedings in the said court, a written or printed certificate showing the amount so received on account of each of such passage, and the rate charged, which certificate shall also contain a promise by said railroad company or other carrier, to repay to said passenger the difference between the rate so charged and the rate so fixed or ordered as aforesaid by the commission, in case the rate so fixed or ordered by said commission shall be upheld or approved by said appellate court. In the event that the rate so fixed or ordered by the commission and complained of in such proceeding shall be upheld and approved by said court, then all the certificates and promises of repayment aforesaid, so issued as aforesaid, shall become due and payable on demand to the several passengers and shippers holding the same, at the respective stations of the railroad company or other carrier, where the same are executed, thirty days after such decision of the court shall have been rendered. Any railroad company or other carrier of freight which has filed the petition and bond herein provided for, and which under the provisions of this section shall continue to charge the same rates for the transportation of freight as existed and were in force prior to the order of the commission complained of, shall refund to said shipper within thirty days after presentation of the claim to any freight officer or agent of said railroad company or other carrier of freight, the difference between the rate so charged and the rate so fixed or ordered as aforesaid by the commission, in case the rate so fixed or ordered by said commission shall be upheld or approved by said court. Said claim shall be evidenced and paid in such manner as shall be prescribed by the commission. In case any such railroad company or other carrier of freight or passengers shall upon demand fail to pay to the holder of any such certificate or claim for overcharge, the amount due thereon, within the time hereinbefore fixed, any such holder shall have a right of action not only to recover the amount due thereon but also to recover a penalty of one hundred dollars from any such railroad company or common carrier, together with a reasonable attorney's fee and

the amount due on such certificate, or claim for overcharge, and such penalty and attorney's fee may be recovered in the same action, to be brought in any court of competent jurisdiction in any county through which any such railroad passes, or in which any such other carrier may carry on business in this state.

Burden of Proof.

SEC. 7. In all trials under section 6 of this act, the burden of proof shall rest upon the plaintiff, who must show by clear and satisfactory evidence that the rates, regulations, orders, classifications, acts or charges complained of are unreasonable and unjust to it or them.

Rates, Rules, Etc.—Copy to Railroad.

SEC. 8. The said commission shall, as soon as any revision or classification or schedules of rates or charges or rules or regulations are adopted by it, furnish each railroad company subject to the provision of this act with a certified copy thereof in suitable form, showing the revision, alterations, rule or regulation made by the commission, to be delivered to each of the said railroad companies at its principal office in this state, if it has such office in this state, and if not, then to any agent of said company in this state, which said revision, alterations, rules or regulations shall take effect at the date which may be fixed by said commission, which shall not be less than twenty days after the delivery of such certified copy to the railroad company as aforesaid. Each of said railroad companies shall cause said revised schedules, or rules or regulations to be printed in large type and shall have the same posted up in a conspicuous place at each of its depots, accessible to the public, so as to be inspected by the public, or shall keep the same on file in each of said depots for the inspection of all interested persons, in which case, there shall be a notice printed in large type posted up in some conspicuous place in each of said depots notifying the public that tariffs, naming rates on all traffic and copies of said rules and regulations are kept at such stations for public inspection as required by law and can be seen by any person interested therein upon application to the freight agent at any such station. And any person so interested shall be entitled to inspect such schedules, tariffs, rules or regulations upon proper demand of any agent having charge of any such station. If said commission shall at any time, abolish, alter or in any manner amend the said schedule, or abolish or amend any such regulation, then in that event, certified copies of the said rules or regulations, showing the changes therein shall be delivered to each railroad company as herein specified. No increase shall be made in any rate or classification by any railroad company except after ten days' notice to the commission.

Examination of Books and Officers—Refusal—Penalty.

SEC. 9. In any matter or controversy under investigation by the commission, the commissioners, or either of them, or such person or persons as they may employ therefor shall have the right, at such times, as they may deem necessary, to inspect the books and papers or other documents of any railroad company subject to the provisions of this act, and to examine under oath any officer, agent or employe of such railroad company in relation to the business and affairs of the same; and said commissioners, or either of them, or such other person as may be employed by them as aforesaid, shall also have the right to exercise like powers as to all other persons or corporations having books, papers, documents or information bearing upon such investigation. If any railroad company, or such other person or corporation shall refuse to permit the commissioners or either of them, or any person authorized thereto as aforesaid to examine its books and papers, or other documents as aforesaid, such railroad company or other person or corporation shall, for each offense, pay to the state of Indiana not less than $100.00 nor more than $500.00 for each day it or he shall so fail or refuse: *Provided*, That any person other than one of said commissioners who shall make any such demands shall produce his authority, under the seal of said commission, to make such inspection.

(a) Any officer, agent or employe of any railroad company or any other person or corporation who shall upon proper demand, fail or refuse to exhibit to the commissioners or either of them, or any person authorized to investigate the same, any book, paper, or other documents of such railroad company or any other person or corporation which is in the possession or under the control of such officer, agent or employe, shall be deemed guilty of a misdemeanor, and upon conviction in any court having jurisdiction thereof, shall be fined for each offense a sum not less than $100.00 and not to exceed $500.00.

Demand for Information—Failure—Penalty.

SEC. 10. Within sixty (60) days after the taking effect of this act all railroads doing business in the state of Indiana, and to which any of the provisions of this act apply, shall, upon demand, in any matter under investigation by said commission furnish said commission with copies of all its schedules of rates, charges and classification of freight, joint tariffs and divisions of rates, and shall in addition thereto, furnish said commission with copies of all rules and regulations concerning the switching or transfer of freight and cars and of rules providing charges therefor, and copies of all rules, orders or schedules fixing or providing for mileage, per diem, demurrage or storage charges, or for use of cars loaded or empty,

and upon the adoption of any new classification, schedule of rates, rules or orders said railroad company shall, within ten (10) days thereafter, furnish said commission with copies thereof, and the failure of any railroad company to which any of the provisions of this act applies, to furnish any of the things above provided for within the time specified, shall be a misdemeanor and said railroad company shall, upon conviction thereof in any court of competent jurisdiction, be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000.00), and the continuance of such failure or refusal shall constitute a separate offense for each day of its continuance.

Interrogatories—Penalty—Interstate Commerce—Bill of Lading.

SEC. 11. The said commission shall have power to elicit all information deemed by it necessary to the hearing and consideration of any complaint made to said commission and shall have power to elicit from any railroad company or companies or any other person or corporation to be affected by any such investigation any and all information necessary to the consideration and determination of any and all questions over which this commission shall have jurisdiction, and for said purpose said commission may submit blanks provided for the purpose of eliciting such information or may submit written interrogatories to such railroad company or companies, or person or corporation, and said blank shall be properly filled out and said interrogatories so answered as to answer fully and correctly each question therein propounded, and in case they are unable to answer any question they shall give a satisfactory reason for their failure, and the said answers, duly sworn to by the proper officers of said company or corporation or by said person, shall be returned to said commission at its office in the city of Indianapolis within thirty (30) days from the receipt thereof, or said commission may use such other means or methods of securing such information as may be deemed expedient by it.

(a) If any officer or employe of a railroad company or any other person or corporation as aforesaid shall fail or refuse to fill out and return any blank or to answer any interrogatories as above required, or fail or refuse to answer any questions therein propounded, or give a false answer to any such question, where the fact inquired of is within his knowledge, or shall evade the answer to any such question, such person shall be guilty of a misdemeanor and shall, on conviction thereof, be fined for each day he shall fail to perform such duty after the expiration of the time aforesaid a penalty of five hundred dollars ($500.00) and the commission shall cause a prosecution therefor in the proper court; and a penalty of a like amount shall be recovered in a civil action from the railroad company or other corporation or employer when it ap-

pears that such person acting in obedience to its or his directions, permission or request in his failure, evasion or refusal.

(b) The said commission shall make and submit to the governor annual reports containing a full and complete account of its transaction and proceedings, together with the information gathered by such commission as herein required, and such other facts, suggestions and recommendations as may be by it deemed necessary, which report shall be published as the reports of other state officers and boards.

(c) When on the verified complaint of any interested person or corporation, the said commission shall, on the investigation of such complaint be convinced that the freight rates on any railroad in Indiana, engaged in interstate commerce are excessive or levied or laid in violation of the interstate commerce law or the rules and regulations of the interstate commerce commission, the superintendent, agent or other official of the said railroad companies shall be notified in writing of the facts and requested to reduce or correct them, as the case may be. When the rates are not changed or the proper corrections are not made according to the request of the commission, the latter is authorized and empowered to notify the interstate commerce commission and to apply to it for relief.

(d) Whenever any property is received by any common carrier subject to the provisions of this act to be transported from one place to another within the state, it shall, upon demand of the shipper, issue a receipt or bill of lading therefor, naming therein the classification of said freight and the rate of freight at which the same is to be carried, and it shall be unlawful for such common carrier to limit by contract or otherwise the negotiability of any bill of lading; nor shall any carrier limit or change its common law liability by contract or otherwise, as to its responsibility for the negligent act of its agents and servants with reference to property in its custody as a common carrier: *Provided*, That nothing herein contained shall be so construed as to abridge, or in any wise lessen the liability of any such carrier as it now is under existing laws.

Witnesses—Fee—Attachment—Contempt.

SEC. 12. The said commission in making any examination or investigation provided for in this act, shall have power to issue subpoenas for the attendance of witnesses by such rules as they may prescribe. Each witness who shall appear before the commission by order of the commission shall receive for his attendance two dollars ($2.00) per day and three cents per mile traveled by the nearest practicable route, in going and returning from the place of meeting of said commission, which shall be ordered paid by the auditor of state, who shall draw and deliver his warrant upon

the state treasurer to such witness for such amount upon the presentation of proper vouchers sworn to by such witness, and approved by the chairman of the commission. In case any witness shall fail or refuse to obey such subpoena, said commission may apply to any court of competent jurisdiction to issue an order and an attachment for said witness, directed to any sheriff or constable of the State of Indiana, and compel him to attend before the commission and give his testimony and answer any question upon such matters as shall be lawfully required by it. If a witness, after being duly summoned or ordered by any court, shall fail or refuse to attend or to answer any question propounded to him, and which he would be required to answer if in court, such court shall have the power to fine and imprison such witness for contempt. The claim that any such testimony may tend to criminate the person giving it shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding: *Provided*, That the commission and all parties to any such investigation shall, in all cases, have the right in its discretion to issue proper process and take depositions instead of compelling personal attendance of witnesses, as depositions are taken in civil cases. The sheriff or constable executing any process issued under the provision of this section or under any other provisions of this bill shall receive such compensation as may be allowed by the commission, not to exceed fees now prescribed by law for similar service in civil cases.

Fixed Rates—Violation of—Penalty.

SEC. 13. If any railroad company, subject to this act, or its agent, or officer, shall hereafter wilfully charge, collect, demand or receive from any person, company, firm or corporation a greater or less rate, charge or compensation than that approved by the railroad commission for the transportation of freight, passengers or cars, or for the use of any car on the line of its railroad, or any line operated by it or for the transfer or switching of a car or cars from its line or track to that of any other railroad company for receiving, forwarding, handling or storing such freight or cars or for any other service performed by it, such railroad company and its agent and officer shall be deemed guilty of extortion and shall forfeit and pay to the state of Indiana a sum not less than $100.00 nor more than $500.00, to be recovered by said commission in a civil action to be instituted for that purpose in any court of competent jurisdiction.

Unjust Discrimination—Penalty.

SEC. 14. If any railroad subject hereto, directly or indirectly, or by any special rate, rebate, drawback or other device, shall

charge, demand, collect or receive from any person, firm or corporation a greater or less compensation for any service rendered or to be rendered by it than it charges, demands, collects or receives from any other person, firm or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such railroad shall be deemed guilty of unjust discrimination, which is hereby prohibited.

(a) It shall also be an unjust discrimination for any such railroad company to make or give any undue or unreasonable preference or advantage to any particular person, firm, corporation or locality, in connection with the transportation of any shipment or shipments, or to subject any particular kind of traffic to any undue or unreasonable prejudice, delay or disadvantage in any respect whatsoever.

(b) Every railroad company which shall fail or refuse, under such regulations as may be prescribed by the commission, to receive and transport without unreasonable delay or discrimination the passengers, tonnage and cars, loaded or empty, of any connecting line of railroad company, and every railroad company which shall under such regulations as may be prescribed by the commission, fail or refuse to transport and deliver without unreasonable delay or discrimination any passengers, tonnage or cars, loaded or empty, destined to any point on or over the line of any connecting line of railroad, shall be deemed guilty of unjust discrimination: *Provided*, That perishable freights of all kinds and live stock shall have precedence of shipment: *Provided further*, That this shall not be so construed as to require any railroad company to give the use of its terminal facilities to any other railroad company engaged in like business, except that if such terminal facilities are granted to one company, they shall be granted on like terms to all other companies.

(c) It shall also be an unjust discrimination for any railroad company subject hereto to charge or receive any greater compensation in the aggregate for the transportation of like kinds of property or passengers for a shorter than for a longer distance over the same line in the same direction, the shorter distance being included in the longer: *Provided*, That upon application to the commission any railroad company may in special cases, to prevent manifest injury, be authorized by the commission to charge less for longer than for shorter distance for transporting persons and property, and the commission shall from time to time prescribe the extent to which such designated railroad may be relieved from the operation of this subdivision: *Provided*, That no manifest injustice shall be imposed upon any person at intermediate points. *Pro-*

vided, further, That nothing herein shall be so construed as to prevent the commission from approving what are known as "group rates" on any of the railroads in the state.

(d) Any railroad company violating any provision of this section shall be deemed guilty of unjust discrimination, and shall for each offense pay to the State of Indiana a penalty of not less than $500.00 nor more than $5,000.00, to be recovered in a civil action instituted for that purpose in a court of competent jurisdiction.

(e) That nothing in this act shall prevent the carriage, storage, or handling of property free or at reduced rates for the United States, state or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion, or commutation passenger tickets. Nothing in this act shall be construed to prohibit any common carrier from giving free passes or tickets to officers and employes of Young Men's Christian Associations, reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Home or State Home for disabled volunteer soldiers, and of soldiers' and sailors' orphans' homes, including those about to enter and those returning home after discharge, under arrangements with the boards of managers of said homes. Nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employes, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employes.

False Billing, Etc.—Rebate—Misdemeanor—Penalty.

SEC. 15. Any officer or agent of any railroad company subject to this act, who by means of false billing, false classification, false weight, or by any other device, shall suffer or permit any person to obtain transportation for property at less than the regular rate then in force, on such railroad, or who by means of false billing, false classification, false weighing or by any device whatever, shall charge any person, firm or corporation, more for the transportation of property than the regular rates, shall be guilty of a misdemeanor, and on conviction thereof, fined in a sum not less than $100.00 nor more than $1,000.00.

(a) Any person, firm, or corporation, who shall receive any rebate or concession, or who knowingly by means of false weight, false classification, false billing, or by any other device, shall obtain lower than the regular rates then in force, shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than $100.00 nor more than $1,000.00.

Unlawful Act—Civil Damages.

SEC. 16. In case any railroad company subject to this act shall do, cause to be done, or permit to be done, any matter, act or thing in this act prohibited, or declared to be unlawful, or shall omit to do any act, matter or thing herein required to be done by it, such railroad company shall be liable to the person or persons, firm or corporation injured thereby for the damages sustained in consequence of such violations, and in case said railroad company shall be guilty of extortion or discrimination as by this act defined, then in addition to such damages, such railroad company shall pay to the person, firm or corporation injured thereby a penalty of not less than $100.00 nor more than $500.00, to be recovered by civil action in any court of competent jurisdiction in any county into or through which such railroad may run: *Provided*, That such company may plead and prove as a defense to the action for such penalty that such overcharge was unintentionally and innocently made through a mistake of fact: *Provided*, That such recovery as herein provided shall in no manner affect a recovery by the state of any penalty provided for such violation.

Violation of Duty—Penalty—Civil Action.

SEC. 17. If any railroad company as aforesaid shall wilfully violate any other provision of this act and shall do any other act herein prohibited, or shall fail or refuse to perform any other duty enjoined upon it for which a penalty has not herein been provided, for every such act of violation it shall pay the State of Indiana a penalty of not more than $1,000.00, to be recovered in a civil action to be instituted for that purpose in any court of competent jurisdiction.

Recovery of Penalties.

SEC. 18. All of the penalties herein provided, except as provided in section 16, shall be recovered, and suits thereon shall be brought in the name of the State of Indiana, in any circuit or superior court in any county into or through which said railroad may run, by the attorney general or under his direction; and the attorney bringing such suit shall receive a fee of fifty dollars for each penalty recovered and collected by them, and ten per cent. of the amount collected to be paid by the state. In all suits arising under this act the rules of evidence shall be the same as in ordinary civil action, except as otherwise herein provided. All penalties recovered by the state under this act shall be paid into the treasury of the state.

Evidence as to Rates, Rules, Etc.—Certified Copies.

SEC. 19. Upon application of any person, the commission shall furnish certified copies of any classification, rates, rules, regulations or orders, and such certified or printed copies published by

authority of the commission shall be admissible in evidence in any suit and sufficient to establish the fact that any charge, rate, rule, order or classification therein contained and which may be at issue in the trial is the official act of the commission. A substantial compliance with the requirements of this act shall be sufficient to give effect to all the classifications, rates, charges, rules, regulations, requirements and orders made and established by the commission and none of them shall be declared inoperative for any omission of a technical matter in the performance of such act.

Enforcement—Prosecution.

SEC. 20. It is hereby made the duty of such railroad commission to see that the provisions of this act and all laws of this state concerning railroads are enforced and obeyed, and that violations thereof are promptly prosecuted, and penalties due the state therefor recovered and collected. And said commission shall report all said violations, with the facts in their possession to the attorney general or other officer charged with the enforcement of the laws and request him to institute the proper proceeding; and all suits between the state or the commission and any railroad or express company shall be placed immediately upon the trial calendar of the courts wherein the same are pending, and shall have precedence over all other civil causes pending in such courts, to the end that there may be speedy trials and adjudications thereof.

(a) It shall be the duty of the commission to investigate all complaints against the railroad company subject hereto, and to enforce all laws of this state in reference to railroads.

Terms Defined—Express Companies—Street Railroads.

SEC. 21. The term "road," "railroad," "railroad companies," "railroad corporations," "private car lines," "fast freight" or "carrier," as used herein, shall be taken to mean and embrace all corporations, companies, individuals and association of individuals, their lessees or receivers appointed by any court whatsoever, that may now or hereafter own, operate, manage or control any railroad or part of railroad in this state or any fast freight line or private car lines and express companies, and all such corporations, companies, and associations of individuals, their lessees or receivers that shall do the business of common carriers on any railroad in this state.

(a) The provisions of this act shall be construed to apply to, and affect only the transportation of passengers, freight, express matter and cars between points within this state; and this act shall also apply to express companies: *Provided*, That this act shall not apply to street or interurban railroads, except as section three (3) substitutes the railroad commission, created hereby for

the auditor of state, in respect to duties pertaining to the construction and maintenance of interlocking works at crossings of railroads and railroads operated by electricity.

Right of Action.

SEC. 22. This act shall not have the effect to release or waive any right of action by the state or any person for any right, penalty or forfeiture which may have arisen, or may hereafter arise under any law of this state; and all penalties accruing under this act shall be cumulative of each other, and a suit for or recovery of one shall not be a bar to the recovery of any other penalty.

Road Defects—Recommendations—Reports.

SEC. 23. Whenever said commission shall receive reliable information or of themselves shall have reason to believe that there is a dangerous defect in any railroad bridge, culvert, water tank or crane, frog, railroad or wagon road crossing, curve, embankment, road bed, ties or track, motive power, or any other fault in the construction, equipment or management of any railroad within the State of Indiana, it shall be the duty of said commission to cause such investigation to be made as it may deem necessary, and when such investigation shall have been made, said railroad commission shall make a report in duplicate, under oath, of findings and recommendation, one to the governor of the State of Indiana, and one to the manager, superintendent or such other official within the state of any railroad company complained of that may be legally served with process against such company under the statutes of said state. In said reports and recommendations, the commission shall make an accurate statement of the time when such examination was made, of the exact location, character and extent of such defects, if any shall have been found, and shall also recommend such reasonable changes and improvements as are, in the opinion of the commission, necessary to remedy such defects; and said reports shall be filed over the signature of said railroad commission with the seal of said commission attached.

Appropriation.

SEC. 24. The sum of nineteen thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the payment of the salaries of the members and employes of said commission, and of the expenses necessary to effectually carry out the provisions of this act, and this shall be deemed a continuing appropriation from year to year during the existence of said commission.

Repeal.

SEC. 25. All laws and parts of laws in conflict with this act are hereby repealed.

CHAPTER 54.

AN ACT to amend section 1 of an act entitled "An act concerning the conveyance of land by husband and wife where either is insane," approved March 9, 1901.

[H. 85. APPROVED FEBRUARY 28, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 1 of an act entitled "An act concerning the conveyance of land by husband and wife where either is insane," approved March 9, 1901, be amended to read as follows:

Conveyance of Land—Husband or Wife Insane.

Section 1. That whenever, hereafter, any person owning real estate and being desirous of selling the same, or any part thereof, and whose husband or wife at the time shall be insane or of unsound mind, such person upon complying with the provisions of this section shall be and is hereby authorized and empowered to sell and convey the same by deed without the joinder of such husband or wife who is insane or of unsound mind, and the conveyance shall have the same effect as would the joint deed of both, had neither been insane or of unsound mind. Before any such deed shall be made the owner of the real estate intending to make the sale shall by petition apply to the court having probate jurisdiction in the county where the real estate to be sold, or some part of it, is situated, alleging the insanity of the husband or wife of the owner, and that such insanity is probably permanent. Upon the filing of such petition notice shall be given to the person alleged to be insane, either by service of process, as provided by law for service of process against insane persons, in other civil actions, or, if the person alleged to be insane is, by affidavit, as in other civil cases, shown to be an non-resident of the state, by publication. After such notice and upon or after the return day thereof the legally appointed guardian of the person alleged to be insane, if there be one, or, if there be no such guardian, a guardian ad litem, for such person, appointed by the court, shall make proper defense, if any there be, to such application. Thereupon the matter of such petition shall be submitted to the court, and if the allegations thereof be proved to the satisfaction of the court, it shall make and enter a finding that the person alleged to be insane is insane, and that the insanity is probably permanent, and upon the filing, by the petitioner, with the clerk of the court, of a bond, in a penalty and with surety to the approval of the court, payable to the State of Indiana, conditioned to keep such insane husband or wife from becoming a county charge, and to account to him or her,

upon restoration to sanity, if he or she shall upon such restoration demand it, one-third of the purchase money received for the real estate upon such sale, the court shall enter an order authorizing the whole title to be conveyed by the petitioner without the joinder of the insane husband or wife. Such deed, when made upon such an order of court, shall have the same effect as has the deed of an unmarried person competent to convey real estate: *Provided*, That whenever it is shown to the satisfaction of the court having probate jurisdiction in the county wherein such lands so authorized to be sold are situated, that such lands were sold pursuant to such order authorizing the same, and that the entire proceeds of such sale were afterwards invested in other real estate situated in the State of Indiana, and that such lands thus purchased were of no less value than the lands theretofore sold pursuant to said order, and that the title thereto had been taken in the name of the person having such insane husband or wife, and that such insane husband or wife will not suffer loss thereby, such court shall enter an order discharging said bond and releasing the sureties from all liability thereon.

Chapter 55.

AN ACT to legalize the record of conveyances, and other instruments acknowledged before justices of the peace and defectively certified.

[H. 170. Approved February 28, 1905.]

Justices of the Peace—Conveyances Legalized.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That the records of all conveyances and other instruments which were acknowledged before justices of the peace of a county other than where the lands described in such conveyances or other instruments are situated, and where such conveyances and other instruments and the acknowledgment thereof appear regular and properly executed, except that the authority of such justice of the peace, as may have certified to such acknowledgment, is not further certified by the proper officer, as otherwise required by law, are hereby legalized and made valid, the same as if the proper certificate of authority had been attached to such conveyances or other instruments at the time they were so recorded.

CHAPTER 56.

AN ACT to provide for the assessment for taxation of the stock of banks organized under the laws of the United States, and declaring an emergency.

[H. 178. APPROVED FEBRUARY 28, 1905.]

Taxation—National Bank Stock—Where Assessed.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the shares of capital stock in any bank organized under the laws of the United States shall be assessed to the owner thereof in the township, city or town, where such bank is located, and shall be taxed at the same rate as other personal property in the same locality is taxed, and with reference to its value on the first day of March of the current year.

Bank Officers—Duties—Assessor—Duties.

SEC. 2. The president, cashier or other accounting officer of such bank shall, between the first day of March and the fifteenth day of May of each year, make out a statement, under oath, in duplicate, showing the number of shares comprising the capital stock of such bank, its surplus and undivided profits, the real estate owned by it, if any, together with the location and assessed value thereof, the name and residence of such stockholder, with the number of shares owned by each of such stockholders in such bank, and shall deliver one of such statements to the assessor in the township wherein such bank is located and the other to the county auditor. After an examination of such statement and also an examination of such officer, under oath, if he deem it necessary, it shall be the duty of such assessor to determine and settle the true cash value of such stock and to list and assess the same to the respective owners thereof at its true cash value, and make return thereof in all respects, the same as other personal property belonging to individuals: *Provided, however,* That in determining the true cash value of such stock and assessing the same, the assessed value of any real estate acquired by any such bank shall be deducted from the valuation of its capital stock.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

CHAPTER 57.

AN ACT concerning the equalization of assessments of real and personal property by the state board of tax commissioners and repealing all laws in conflict therewith.

[H. 50. APPROVED FEBRUARY 28, 1905.]

State Board Tax Commissioners—Equalization of Assessments.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be the duty of the state board of tax commissioners, during the first five days of its second session each year, to consider the assessments of the personal property of the various counties of the state, and also the assessment of the real estate of such counties in the years when it is required to equalize the same, determine the counties in which the assessment of the real estate or personal property or both appears to be too low, fix a day or days in their next succeeding session in the same year, not earlier than fifteen days from the expiration of said five days, when it will consider the matter of the increase of such assessments, and make an order directing the manner in which a hearing may be had with reference thereto, but said board shall not at said second session make any order for the purpose of equalizing such assessments. Within said first five days of said second session the said board shall certify to the auditor of each of such counties the fact of the determination of said board to consider the matter of the increase of such assessments, stating whether the increase to be considered appertains to real or personal property or both and naming the day on which a hearing may be had. Such certificate shall be accompanied by a copy of the order directing the manner in which such hearing may be had.

County Auditor—Notice to Taxpayers—County Commissioners.

SEC. 2. It shall be the duty of the auditor of any county receiving such certificate to give the taxpayers thereof immediate notice of the time, place and object of such hearing by posting one copy thereof at the door of the court house in said county and by one publication thereof in the first issues thereafter of two newspapers of different politics, published in said county, if such there be, one of which shall be a daily in counties in which a daily is published. Such auditor shall also call the board of county commissioners to meet in special session on a day to be fixed by him within five days of the receipt of such certificate, unless it shall be in regular session within that time, at which regular or special meeting such board shall take such steps as it may deem proper and expedient to protect the interest of the taxpayers at such hearing and prevent an unjust and inequitable increase in the assessment of the property of such county.

Hearings—Who May Appear.

SEC. 3. At the time fixed for such hearing any representative of the board of county commissioners of any county and any taxpayer of any county to be affected by any proposed increase of assessment may appear in person or by attorney and be heard with reference thereto.

Increase—When May Be Made.

SEC. 4. After the hearings hereinbefore provided have been concluded such board shall proceed to equalize the assessments of property in the various counties of the state as by law provided, but no increase of any assessment of either the real or personal property of any county shall be made where notice has not been given as herein provided. In determining what, if any, increase in assessment shall be made such board shall take into account the valuation of similar property in other counties and shall as far as practicable make the valuation uniform.

Extension of Session.

SEC. 5. For the purpose of hearing and determining the matter of such proposed increase in assessments the third or last regular session of the state board of tax commissioners may be extended such length of time as its business may require not exceeding ten days.

Repeal.

SEC. 6. All laws and parts of laws in conflict with this act are hereby repealed.

CHAPTER 58.

AN ACT to amend section 13 of an act entitled "An act authorizing and providing for the separation of the Indiana industrial school for girls from the woman's prison, for the purchase of land and construction of buildings for the industrial school for girls, for appointing commissioners and making appropriations therefor, defining the plan to be pursued, authorizing the appointment of a board of managers and a superintendent for the girls' industrial school, repealing all laws in conflict therewith and declaring an emergency," approved March 11, 1903.

[S. 64. APPROVED MARCH 1, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 13 of the above entitled act be amended to read as follows:

Industrial School for Girls—Separation—Appropriation.

Section 13. There is hereby appropriated from the state treasury out of any funds not otherwise appropriated $235,000, or so much thereof as may be necessary for the erection and equipment of the building[s] and expense of the commissioners authorized by this act; $75,000 of which shall be available on and after June 1, 1905, and the remaining $160,000 shall be available on and after November 1, 1905. The said buildings shall be erected and equipped and made ready for occupancy as soon as practicable, and when completed, turned over to the board of managers of the industrial school for girls provided for in this act. When this shall have been done by said commissioners and final settlement made with the auditor of state, then the duties of said commissioners shall end.

CHAPTER 59.

AN ACT concerning the conveyance of real estate and the transfer of personal property by school cities of over one hundred thousand population.

[S. 138. APPROVED MARCH 1, 1905.]

Cities of Over 100,000—School Cities—Transfer of Property.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all sales and conveyances of real estate and all sales and transfers of personal property heretofore at any time made by school cities of this state having a population of over 100,000 according to the last preceding United States census are hereby ratified, approved and validated and the deeds and other instruments of conveyance and transfer executed by such school cities evidencing such sales are hereby validated and made effective, as of their respective dates, to vest in the purchaser the title thereby sought to be conveyed or transferred; and in the future any such school city shall have full power to sell real estate and transfer personal property and to execute deeds of conveyance and instruments of transfer therefor, with or without covenants of warranty, whenever in the opinion of any such school city, properly made matter of record in the minutes of its board of school commissioners, such real estate or personal property cannot longer be advantageously used for school or library purpose and can be sold for its fair cash value.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, it shall be in force from and after its passage.

CHAPTER 60.

AN ACT providing for the use for park purposes of lands owned by counties, under sections 7904, 7905, 7906, of Burns' revised statutes for 1901, and which lands have been abandoned for fair grounds purposes; and fixing conditions and restrictions under which such lands may be used for park purposes, and giving cities authority to accept and use and maintain public parks upon such lands.

[S. 285. APPROVED MARCH 1, 1905.]

County Commissioners—Purchase of Fair Grounds—Use as Parks.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in any county within the state in which the board of county commissioners have heretofore, in accordance with the provisions of sections 7904, 7905 and 7906 of Burns' revised statutes of 1901, purchased in the name of the county real estate to be used for agricultural and horticultural fairs, and the use of which real estate shall have since been abandoned for fair purposes, it shall be lawful for the board of county commissioners of such county to authorize the use of such lands for park purposes, in the manner and as provided by this act.

Maintenance—Conditions of Use.

SEC. 2. No money shall be expended out of the county treasury for the maintenance of such abandoned fair grounds for park purposes, but the board of county commissioners of any such county owning such abandoned fair grounds may by an order entered of record permit the use of such abandoned fair grounds by any city or cities whose limits approach within one mile of such abandoned fair grounds for park purposes, fixing in such order the conditions, restrictions and limitations within which such city or cities may take and use such abandoned fair grounds for such park purposes.

Acceptance by Council.

SEC. 3. Any city or cities within this state whose limits approach within one mile of any such abandoned fair grounds may by an ordinance of the common council, accept from the board of county commissioners of any such county the use of any real estate, being abandoned fair grounds, as hereinbefore provided, and any such city or cities are hereby given the right, power and authority by and through their common councils, boards [of] public works, and other authorities, as provided by law, to use and maintain and keep in condition any such lands for park purposes for the use of the general public, in the same manner and under the same conditions and restrictions and limitations as are now

fixed and provided by law for the use and control and maintenance of park properties by such cities, in every way and to the same extent as if the city owned said real estate in its own name and right; and such city or cities shall have the power and authority to accept by city ordinance such real estate for park purposes under the order of the board of county commissioners, as herein provided.

Joint Acceptance by Cities.

SEC. 4. Two or more cities, each of whose limits approach such abandoned fair grounds within one mile, may join in accepting from the county the use of such lands for park purposes, and may, by their several common councils, agree with the board of county commissioners upon a fair and equitable basis for the care and maintenance of such park, which agreement shall be approved by the common council of each of such cities and by the board of county commissioners of the county owning such land.

Title to Lands.

SEC. 5. The title to such lands shall remain in the county, and the use of the land by the city or cities shall continue so long as such city or cities continue to maintain such lands as a public park; and no such city or cities shall have or receive any greater interest or right in and to such lands than have heretofore been given by law to agricultural societies using such lands for fair purposes.

Abandonment as Parks—Sale.

SEC. 6. If at any time after such lands have been accepted for park purposes, as aforesaid, such city or cities shall abandon the use of such lands for park purposes, it shall be lawful for the board of county commissioners to sell and convey such lands, or any part thereof, for the best price it will bring and turn the proceeds of the sale into the county treasury.

Emergency.

SEC. 7. Whereas an emergency exists for the immediate taking effect of this act, it shall be in effect from and after its passage.

Chapter 61.

AN ACT to amend section 1 of an act entitled "An act supplemental and amendatory to an act to amend section 24 of an act entitled 'An act fixing the fees, salaries, duties and compensation of the officers and persons named therein, prohibiting the violations of its provisions, and repealing certain laws, approved March 12, 1875, and declaring an emergency,' approved February 22, 1899, and declaring an emergency," approved March 9, 1903, and declaring an emergency.

[H. 135. Approved March 2, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That section one (1) of an act supplemental and amendatory to "An act to amend section 24 of an act entitled, 'an act fixing the fees, salaries, duties and compensation of the officers and persons named therein, prohibiting the violations of its provisions, and repealing certain laws, approved March 12, 1875, and declaring an emergency,' approved February 22, 1899, and declaring an emergency, approved March 9, 1903," and declaring an emergency, be amended to read as follows:

Justice of the Peace—Township of 50,000—Special Justice.

That in any and all townships in which is located a city having a population, as shown by the last preceding United States census, of fifty thousand or more, that if from any cause any justice of the peace in such township shall be unable to attend and preside over his court during any day or number of days, not to exceed sixty days in any one year, such justice of the peace may appoint, in writing, any reputable attorney of such township to preside during the time such justice of the peace is unable to attend and preside. Such written appointment shall be entered on the order book or record of such court, and such appointee shall, after taking the oath prescribed for justices of the peace, and by executing and filing the bond now required of such justice of the peace in and for such township, conduct the business of such court, subject to the same rules and regulations as duly elected justices of the peace, and shall have the same authority during the continuance of his appointment. Such appointee shall receive his compensation from the justice of the peace for whom and in whose stead he is appointed and acting, and the township shall in no way be liable for such services.

Emergency.

Sec. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall take effect and be in force from and after its passage.

CHAPTER 62.

AN ACT to legalize the incorporation of the town of Plainfield, in Hendricks county, in the State of Indiana, and to legalize the election and qualification of each and all of the officers and of the board of trustees of said town, and to legalize each and all of the acts of said board, and of each and all of said officers of said town, and to legalize and make valid each and all acts, by-laws, ordinances, resolutions, rules, regulations, contracts and minutes adopted and made by said board of trustees, and declaring an emergency.

[H. 248. APPROVED MARCH 2, 1905.]

Legalizing Act—Plainfield.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all steps taken and all acts done in the proceedings for the incorporation of the town of Plainfield, in Hendricks county, in the State of Indiana, be and the same are hereby legalized and rendered valid, and the said town of Plainfield is hereby declared to be legally incorporated, and that the election of the board of trustees and all of the several officers of said town are hereby legalized and rendered valid; that each and all of the acts, by-laws, ordinances, resolutions, rules, regulations, contracts and minutes adopted and made by said board of trustees and of each and all of the several officers of said town, acting as such and in relation to the survey, platting and records thereof, determining the limits and boundaries of said town, and concerning all tax levies made and assessments and collections of taxes and for the raising and borrowing of money and licenses in said town and concerning the streets and alleys and sidewalks thereof, and of the grading, repairs and improvements of the same be and are hereby legalized and declared valid: *Provided, however*, That nothing in this act shall in any way affect any suit now pending in any of the courts of this state.

CHAPTER 63.

AN ACT to legalize the incorporation of the town of Bryant, Jay county, Indiana, the election and qualification and official acts of each and all the officers of said town, including the present officers thereof, and to legalize and render valid all by-laws, ordinances, resolutions, tax levies, contracts and other official acts heretofore made or entered into, in good faith, by the several boards of trustees of said town, including the present board of trustees of said town, and declaring an emergency.

[H. 326. APPROVED MARCH 2, 1905.]

Legalizing Act—Bryant.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all the proceedings taken and had for the incorpora-

tion of the said town of Bryant, Jay county, Indiana, and all acts done pursuant to said proceedings, be and the same are hereby legalized and rendered valid, and the said town of Bryant, Jay county, Indiana, is declared to be legally and regularly incorporated, and that the election, qualification and all the official acts of each and all the several officers of said town, including each and all the present officers of said town are hereby legalized and rendered valid, and that all by-laws, ordinances, resolutions, tax levies, contracts and other official acts heretofore passed, enacted, made, assessed or entered into in good faith by the several boards of trustees of said town be and the same are hereby legalized and rendered valid: *Provided, however*, That this act shall not in any way affect the rights and interests of any person or corporation involved in any suit or litigation pending in any court of the State of Indiana, or of the United States.

Chapter 64.

AN ACT concerning reports to the governor of the State of Indiana from state institutions, offices, boards, bureaus, societies, commissions or other organizations, and the furnishing of plans and estimates for improvements.

[H. 350. Approved March 2, 1905.]

Governor—Reports to by Institutions and State Officers.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That it shall be the duty of every state institution, office, board, bureau, society, commission or other organization which receives an appropriation from the state, to furnish to the governor of the State of Indiana, within six days after each general election in November, such information in relation to the management, control, receipts, expenditures and needs of such state institution, office, board, bureau, society, commission or other organization as such governor may require and in such form as said governor may prescribe and to furnish plans and reliable estimates for all improvements for which appropriations are to be requested from the next succeeding general assembly of said state.

CHAPTER 65.

AN ACT concerning the admission of mutual fire insurance companies of other states to do business in the State of Indiana, repealing all laws in conflict herewith, and declaring an emergency.

[H. 2. APPROVED MARCH 2, 1905.]

Insurance—Foreign Mutual Fire—Admission to State.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any mutual fire insurance company organized under the laws of any state of the United States, other than the State of Indiana, having actual cash assets to the amount of fifty thousand dollars and premium notes or contingent liability required of similar companies organized under the laws of this state shall, upon complying with the other laws of this state relating to foreign fire insurance companies, be entitled to transact the business of mutual fire insurance in this state: *Provided,* That the auditor of state shall as a condition precedent, before issuing a license to any mutual fire insurance company of any other state, or to any agent thereof, applying therefor, require such company or agent to furnish a certificate, under the seal of the department having charge of insurance companies in the state where such company is organized, showing that such company is duly organized, and is solvent and entitled to do the business of mutual fire insurance; and that similar companies of this state, under like conditions, are legally entitled to do business in such other state.

Repeal.

SEC. 2. All laws and parts of laws in conflict herewith are hereby repealed.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

Chapter 66.

AN ACT authorizing the organization of associations by bodies or lodges of Free and Accepted Masons or other ritualistic orders for the acquirement of real estate on which to construct and maintain buildings for certain purposes, providing for election of directors and officers, the issue and method of transfer of stock, the manner of payment for stock, empowering such associations to borrow money and sell bonds, and to do all matters connected therewith, legalizing such action heretofore taken, and declaring an emergency.

[H. 331. Approved March 2, 1905.]

Masonic Lodges, Etc.—Buildings—Incorporation.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever three or more bodies or lodges of Free and Accepted Masons, or of other secret ritualistic orders may desire to form a company or association, for the purpose of building and maintaining a building to be used or occupied, in whole or in part, for meetings or purposes of bodies of lodges of Free and Accepted Masons or of other secret ritualistic orders, or in any way for the use, accommodation or convenience of such bodies or lodges, or the members thereof, they shall make, sign and acknowledge, or any such body or lodge by vote of the majority of members present at any of its regular or stated meetings may elect or constitute and appoint one of its members as its lawful attorney and agent in its name, place and stead to make, sign and acknowledge on behalf of such body or lodge, a certificate in writing which shall state the corporate name adopted by the company or association, the object of its formation, the amount of its capital stock, the number and the par value of its shares of stock not exceeding one hundred dollars per share, the number of its directors, and their names, who shall manage the affairs of the company or association for the first year and the name of the town, city and county in which the same is to be located, and shall file the same in the office of the secretary of state, and a duplicate thereof shall be filed and recorded in the office of the recorder of such county.

Corporate Powers.

Sec. 2. When the certificate shall have been filed as aforesaid the persons named as directors in the articles of association as prescribed in section 1 of this act, and their successors, shall be a body politic and corporate, and shall have and possess the general powers, rights and privileges conferred upon corporations by the laws of this state and by common law.

Acquiring and Conveying Property.

SEC. 3. Every such corporation shall have power to acquire, by purchase or otherwise, hold, use, enjoy, and convey such real and personal property as may be necessary and proper for the purpose of erecting, furnishing, maintaining, and keeping in repair such building. And any part of such building as may not be needed by such corporation for its specific purposes, such corporation shall have full power to rent, lease, or otherwise dispose of, and to receive and collect, and use and enjoy, the rents, issues, and profits arising therefrom.

Directors—President—Stockholders.

SEC. 4. The business of such company or association shall be managed by not less than three nor more than fifteen directors, who shall consist of one representative from each proprietary body or lodge composing such company or association, and the majority of the directors chosen shall be a quorum. Such directors after one year from the organization of the company or association, shall be elected annually by such respective bodies or lodges being stockholders, at such time as the by-laws of said company or association may provide; and the directors thus chosen shall elect the president thereof; and such directors may have such by-laws for the government of such association as shall not be inconsistent with the provisions of this act. Every such body or lodge may hold and own stock in such company or association, may pay for the same in such time and manner as may be fixed by the directors of such company or association.

Secretary and Treasurer—Bond.

SEC. 5. There shall also be elected annually at the first meeting of such directors in each year, a secretary and treasurer, who shall respectively give bond with such surety as shall be required by the by-laws of such company or association, and be sworn to the faithful discharge of the duties assigned to each of them. All officers shall serve until their successors are chosen and qualified.

Capital Stock.

SEC. 6. The amount of capital stock shall be fixed in the certificate of association, but may be increased or decreased by a vote of the stockholders at any called meeting for that purpose, and such capital stock shall be divided into shares of not more than one hundred dollars each.

Transfer of Stock.

SEC. 7. The stock of such company or association shall be deemed personal estate, and when fully paid in shall be transfer-

able in such manner as the by-laws of such company or association may prescribe: *Provided*, That no such body or lodge shall have the power to transfer its stock to any person, persons or company other than to the company or association of which it is such stockholder, until it shall have given written notice to the directors of such company or association at one of the regular meetings of such directors and also to each of the bodies or lodges holding stock in such company or association, and which written notice shall give first to such company or association the privilege to purchase such stock at the actual par value thereof, and to pay for the same within sixty days from the receipt of such written notice by such directors, and second a like privilege to each of the bodies or lodges holding stock of such company or association. Such company or association shall not use its funds in the purchase of stock in any other corporation.

Payments of Capital Stock.

SEC. 8. The capital stock as fixed by such company or association shall be paid into the treasury thereof, within such time and in such installments as the directors of the company or association assess and direct; and when fully paid, such company or association shall issue to the body or lodge entitled thereto a certificate or certificates of stock therefor.

Borrowing Money—Bonds.

SEC. 9. Such company or association may, from time to time, borrow such sums of money as they may deem necessary, and execute their notes therefor, and issue and dispose of their bonds for any amounts so borrowed, for such sums and such rates of interest as are allowed by the laws of the state where such contract is made or bonds sold, and mortgage their property and franchise to secure the payment of any debt contracted by such company. And said company may sell their bonds, either within or without this state, at such price or rate of discount as the board of directors may authorize; and such sales shall be valid as if such bonds should be sold at par value.

Legalizing Clause.

SEC. 10. In all cases where bodies or lodges referred to in section 1 of this act have heretofore taken steps for the organization of like associations as is provided for in this act, every and all such steps, acts and proceedings of any such body and lodge are hereby legalized.

Emergency.

SEC. 11. Whereas an emergency exists for the immediate taking effect of this act, and the same shall take effect and be in force from and after its passage.

Chapter 67.

AN ACT to fix the number of senators and representatives to the general assembly of the State of Indiana, and to apportion the same among the several counties of the state.

[S. 339. Approved March 2, 1905.]

General Assembly—Apportionment.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That the general assembly shall consist of fifty senators and one hundred representatives.

Senators.

Sec. 2. The senators shall be apportioned among the several counties of the state as follows, to wit: Posey and Gibson, one senator; Vanderburgh, one senator; Vanderburgh, Warrick and Spencer one senator; Daviess and Pike, one senator; Martin, Lawrence and Orange, one senator; Dubois, Perry and Crawford, one senator; Harrison and Floyd, one senator; Clark, Jennings and Scott, one senator; Brown, Jackson and Washington, one senator; Jefferson, Ripley and Switzerland, one senator; Franklin, Dearborn and Ohio, one senator; Bartholomew and Decatur, one senator; Greene, Monroe and Owen, one senator; Sullivan and Knox, one senator; Johnson and Shelby, one senator; Putnam, Morgan and Marion, one senator; Vigo, one senator; Vigo and Clay, one senator; Wayne and Union, one senator; Marion, four senators; Fayette, Hancock and Rush, one senator; Jay and Randolph, one senator; Delaware, one senator; Madison, one senator; Madison and Henry, one senator; Tipton and Hamilton, one senator; Hendricks and Boone, one senator; Montgomery and Parke, one senator; Warren, Fountain and Vermillion, one senator; Grant, one senator; Grant, Blackford and Wells, one senator; Miami and Howard, one senator; Carroll and Clinton, one senator; Benton and Tippecanoe, one senator; Allen, one senator; Allen and Adams, one senator; Huntington and Whitley, one senator; Wabash and Fulton, one senator; Marshall and Kosciusko, one senator; Cass and Pulaski, one senator; White, Newton, Jasper and Starke, one senator; Steuben and Dekalb, one senator; Lagrange and Noble, one senator; Elkhart, one senator; St. Joseph, one senator; St. Joseph and Laporte, one senator; Lake and Porter, one senator.

Representatives.

Sec. 3. The representatives shall be apportioned among the several counties of the state as follows, to wit: Posey, one representative; Vanderburgh, two representatives; Gibson, one repre-

sentative; Knox, one representative: Vanderburgh, Gibson and Knox, one representative; Warrick, one representative; Spencer, one representative; Pike and Dubois, one representative; Crawford and Perry, one representative; Martin and Orange, one representative; Harrison, one representative: Floyd, one representative; Clark, one representative; Clark and Washington, one representative; Jennings and Scott, one representative; Jefferson, one representative; Ohio and Switzerland, one representative; Ripley, one representative; Dearborn, one representative; Daviess, one representative; Lawrence, one representative; Jackson, one representative; Sullivan, one representative; Greene, one representative; Monroe and Brown, one representative; Bartholomew, one representative; Decatur, one representative; Franklin and Union, one representative; Vigo, two representatives; Vigo and Vermillion, one representative; Clay, one representative; Clay and Owen, one representative; Parke, one representative; Putnam, one representative; Morgan, one representative; Hendricks, one representative; Johnson, one representative; Marion, eight representatives; Hamilton, one representative: Hamilton and Tipton, one representative; Shelby, one representative; Hancock, one representative; Rush, one representative; Henry, one representative; Wayne, one representative; Wayne and Fayette, one representative; Fountain, one representative; Benton and Warren, one representative; Montgomery, one representative; Tippecanoe, one representative; Tippecanoe and Montgomery, one representative; Boone, one representative; Clinton, one representative; Madison, three representatives; Delaware, two representatives; Randolph, one representative; Jasper and White, one representative; Cass, one representative; Cass and Fulton, one representative; Howard, one representative; Miami, one representative; Carroll, Howard and Miami, one representative; Grant, two representatives; Grant and Blackford, one representative; Jay, one representative; Wabash, one representative; Huntington, one representative; Huntington, Whitley and Kosciusko, one representative; Wells, one representative; Adams, one representative; Allen, three representatives; Lake, one representative; Lake and Newton, one representative; Laporte, one representative; Laporte and Porter, one representative; St. Joseph, two representatives; St. Joseph, Starke and Pulaski, one representative; Marshall, one representative; Elkhart, two representatives; Kosciusko, one representative; Noble, one representative; Dekalb, one representative; Lagrange and Steuben, one representative.

Chapter 68.

AN ACT defining the twenty-first and sixty-first judicial circuits of the State of Indiana, and fixing the time for holding courts therein, and other matters connected therewith.

[H. 233. Approved March 3, 1905.]

Twenty-First Judicial Circuit—Place—Terms.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That "on and after the first day of August, 1905," the twenty-first judicial circuit of the State of Indiana shall be composed of the counties of Warren and Benton, and the terms of court shall be held in such circuit as follows: Beginning in Warren county on the first Monday of September, 1905, and on said day in each year thereafter, and continuing four weeks; then commencing in Benton county on the Monday following the court in Warren county and continuing for six weeks; then commencing in Warren county of [on] the Monday following the court in Benton county and continuing six weeks; then commencing in Benton county on the Monday following the court in Warren county and continuing six weeks; the[n] commencing in Warren county on the Monday following the court in Benton county and continuing six weeks; then commencing in Benton county on the Monday following the court in Warren county and continuing six weeks; then commencing in Warren county on the Monday following the court in Benton county and continuing six weeks; then commencing in Benton county on the Monday following the court in Warren county and continuing four weeks.

Sixty-first Judicial Circuit—Place—Terms.

Sec. 2. The county of Fountain shall constitute the sixty-first judicial circuit, and the terms of court shall be held in such circuit, beginning on the first Monday in February, third Monday of April, first Monday of September and the third Monday of November, and each term shall continue ten weeks.

Judge—Appointment.

Sec. 3. Immediately upon the taking effect of this act a judge shall be appointed by the governor of this state for the sixty-first judicial circuit, as constituted by this act.

Prosecuting Attorney—Appointment.

Sec. 4. Immediately upon the taking effect of this act a prosecuting attorney shall be appointed by the governor of this state for the twenty-first judicial circuit, as constituted by this act.

Writs Returnable.

SEC. 5. All processes returnable to the next term of court, as hereinbefore provided, in the counties of Fountain, Warren and Benton, are hereby made returnable to the next terms, respectively, as fixed by this act, and all orders of court, "recognizances," and publications having reference to the next terms of said courts, as heretofore fixed, shall be taken as having reference to the next terms of said courts, as fixed by this act, and all persons shall take notice of the times and terms of said courts, as herein fixed.

Repeal.

SEC. 6. All laws and parts of laws in conflict herewith are hereby repealed.

CHAPTER 69.

AN ACT to amend section one (1) of an act entitled "An act to amend section one (1) of an act entitled 'an act to provide for the appropriation of real estate for cemetery purposes, approved March 9, 1889, and declaring an emergency,' approved March 11, 1895, and legalizing recording of articles of association of cemetery societies, and declaring an emergency," approved March 8, 1897, and declaring an emergency.

[H. 110. APPROVED MARCH 3, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That section one of the above entitled act be amended to read as follows:

Cemeteries—Petition for Purchase by Council—Circuit Court.

Section 1. That whenever in the opinion of the common council of any city or the board of trustees of any incorporated town, or the trustees of any corporation, owning or controlling a public cemetery, or whenever in the opinion of the common council of any city, or the board of trustees of any incorporated town, or the trustees of any corporation desiring to own and control a public cemetery, where such grounds have not been theretofore appropriated, or set apart by the owners by platting for public cemetery purposes, in any county in Indiana, it becomes necessary to purchase such real estate for cemetery uses, such common council or such trustees may file a petition in the circuit court of said county, asking for the appointment of appraisers to appraise and assess the value of said real estate. It is provided that where any cemetery society has heretofore regularly caused its articles of association to be recorded in either of the miscellaneous mortgages or deed records of its county, such organization is hereby legalized.

Emergency.

SEC. 2. An emergency exists for the immediate taking effect of this act, therefore it shall be in full force and effect from and after its passage.

CHAPTER 70.

AN ACT to amend section 24 of an act entitled "An act concerning county business," approved March 3, 1899.

[H. 217. APPROVED MARCH 3, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That section 24 of an act entitled "An act concerning county business," approved March 3, 1899, be and the same is hereby amended to read as follows:

County Business—Unexhausted Appropriations.

Section 24. When any item or items of appropriation shall remain unexhausted and the object or purpose for which the appropriation was made has been accomplished or shall in the opinion of the county council cease to exist, said county council may, by resolution duly entered of record in the office of the county auditor, cause and direct the unexpended balance of such appropraition to revert to the general fund of the county.

CHAPTER 71.

AN ACT to legalize and render valid all ordinances, amendments thereof, resolutions and contracts heretofore passed or entered into, in good faith, by boards of trustees of incorporated towns of the State of Indiana, which were required by law to be published or posted and which were not published or posted, and all acts done in pursuance and by virtue thereof, in good faith, and declaring an emergency.

[H. 317. APPROVED MARCH 3, 1905.]

Legalizing Acts—Incorporated Towns.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all ordinances, amendments thereof and resolutions heretofore passed and adopted and all contracts made by boards of trustees of incorporated towns in the State of Indiana, in good faith, which were at the time of their passage or execution required by law to be published or posted, and which, in fact, were not published or posted, and which have, since their passage or

execution, been acted upon in good faith, and all actions taken and things done in pursuance and by virtue of such ordinances, amendments thereof, resolutions and contracts, in good faith, be and the same are hereby legalized and rendered valid: *Provided*, Nothing in this act shall affect or apply to any pending litigation.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in effect and force from and after the passage hereof.

CHAPTER 72.

AN ACT to provide a seal for justices of the peace and for the better authentication of certain written instruments.

[H. 323. APPROVED MARCH 3, 1905.]

Justice of the Peace—Official Seal.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That on and after the first day of July, 1905, all justices of the peace of the State of Indiana shall procure a seal that will stamp upon paper the distinct impression of words and letters; said seal shall contain the words "justice of the peace," to which may be added such other device or devices as such justice may desire. Deeds, mortgages, power of attorney, state warrants and all other instruments of writing pertaining to his official duty, duly attested by the seal and signature of a justice of the peace, shall be presumptive evidence of the official character of the said justice of the peace in all courts in the State of Indiana without further authentication.

CHAPTER 73.

AN ACT providing for primary elections, repealing all laws in conflict therewith, and declaring an emergency.

[H. 340. APPROVED MARCH 3, 1905.]

Counties with City of 36,500 to 43,000—Primary Election—Date.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That on the first Tuesday after the second Monday in June prior to any general election a primary election shall be held for the purpose of nominating all candidates to be voted for, for any office, by the electors of only one county or any subdivision

thereof; and for the purpose of electing precinct committeemen and delegates to nominating conventions, to nominate all candidates to be voted for by the electors of more than one county: *Provided, further,* That in case of any election not held on the first Tuesday after the first Monday in November, the primary election for such elections shall be held on the seventh Tuesday prior thereto: that this act shall not apply to the election of delegates to any national, state or congressional convention, nor to any political party which did not cast ten per cent. of the votes cast at the last preceding general election for secretary of state, nor to any county except such as contained within its limits a city having a population of not less than thirty-six thousand five hundred, nor more than forty-three thousand, according to the last preceding United States census.

General Laws Applied.

SEC. 2. Such primary election shall be governed by the laws now in force or hereafter enacted governing general elections, except as in this act expressly otherwise provided.

Precinct Boundaries—Election of Committeeman and Delegates.

SEC. 3. The boundaries of precincts at any primary election shall be the same as at the ensuing general election. Each political party, within the purview of this act, shall, at such primary election, elect, in each precinct, one precinct committeeman and as many delegates, or joint delegates, to each nominating convention of the party as may be allotted to the precinct by the county central committee of the party. Such committee shall also have power to appoint precinct committeemen and delegates to nominating conventions, in case of vacancies occurring, in any of said offices subsequent to such primary election, and to allot the election of delegates to the several precincts, or to any group or groups of precincts within a single township of the county, which allotment shall be made as nearly as practicable according to the ratio of the party vote of such precincts for secretary of state at the last preceding general election. No person shall be eligible by election, or by appointment, to the office of precinct committeeman or delegate to any nominating convention, or to hold or continue in any such office who is not an elector and bona fide resident of the precinct or group of precincts he represents.

Application by Candidates—Filing—Fee.

SEC. 4. Any person desiring to be a candidate at any such primary election shall file with the clerk of the circuit court at least fifteen and not more than twenty days prior to such election, an application, subscribed and sworn to by him, stating his name,

name of his party, his place of residence, the office he desires, that he is eligible thereto, and requesting that his name be placed upon the ballot for the ensuing primary election as a candidate for such office. Such applications shall be filed and numbered in the same orders in which they are presented. If the office sought be lucrative the person filing such application shall therewith pay to such clerk the sum of twenty-five dollars, if the annual emoluments of the office desired exceed five hundred dollars, otherwise, ten dollars, the same to go into and be used as a fund to defray the expenses of such election: *Provided*, That any fifty electors of the county may, at any time not less than fifteen nor more than twenty days prior to such primary election, by a petition filed with the said clerk, present as a candidate for any office to be voted for at such election any citizen who is eligible to such office; and on the payment of the fees above prescribed his name shall be placed upon the ballot as in case of individual applications.

Color of Tickets.

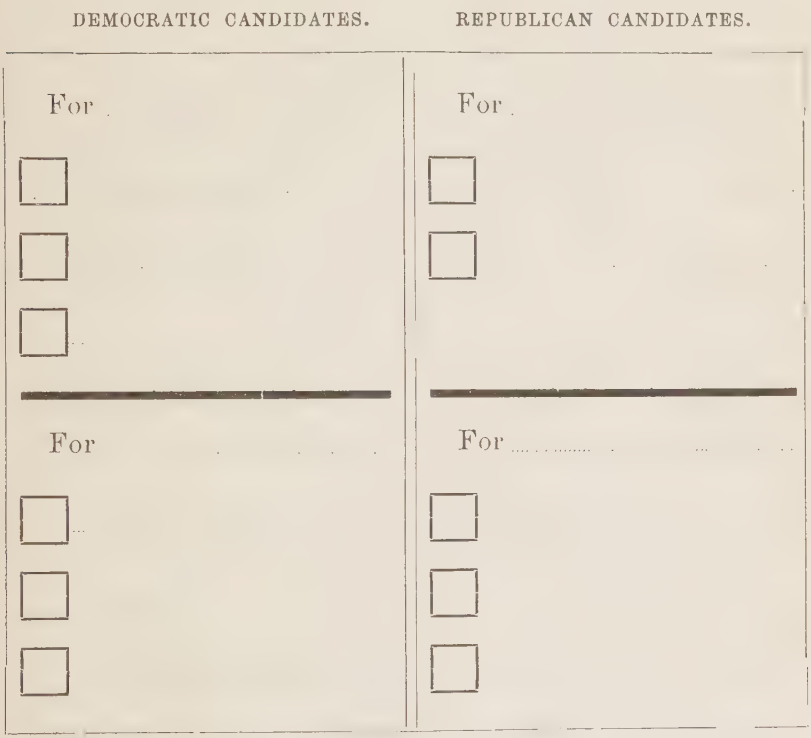
SEC. 5. The names of all persons to be voted for, at any primary election, by the electors of a single township or any subdivision thereof, excepting at the primary elections of towns and cities, shall be placed upon the yellow, or township, ballot; and the names of all persons to be voted for at such election, by all the electors of a single county, shall be placed upon the white, or county, ballot.

Primary Ballots—Form.

SEC. 6. Primary election ballots shall bear on their face no word, emblem, device or ornamentation except as in this section indicated and provided. Across the head of the ballot shall be the words, "Make a cross thus **X** in the square at the left of the name of each person you wish to vote for; and vote only for candidates of one political party." Following these words shall be the list of candidates, headed by words indicating the party to which such candidates belong; each list, together with the squares at the left of the names, enclosed within a rectangle; the names of all candidates for the same office grouped together; each group separated from the group following by a black-faced line; the groups, in all the lists standing in the same order; with equal space allowed, in all the lists, to groups for the same office. At the head of each group of candidates and within the rectangle enclosing the group shall be the name or title of the office for which the persons named in the group are candidates, preceded by the word "For," and in case more than one person is to be elected to such office, followed by the words, "Vote for ————," filling the blank with the word indicating the number to be voted for. The

names of all candidates in each group shall be placed in the same order in which the applications were filed. Candidates for election as committeemen and delegates to nominating conventions shall be grouped at the end of the list of candidates, in the following order: Joint senatorial, joint representative and precinct committeemen. The space allowed for the name of each candidate shall be three-eighths of an inch. The squares at the left of the names shall be one-quarter of an inch. The intention of this section is that the said ballots shall be in the following form:

"Make a cross, thus **X** in the square at the left of the name of each person you wish to vote for; and vote only for candidates of one political party."



Qualification of Voter.

SEC. 7. Any person who shall be entitled to vote at any general election shall be entitled to vote at the preceding primary election; but if any voter attempts to vote for any of the candidates of more than one political party, at any primary election, such attempt shall be deemed to be a distinguishing mark and shall invalidate the ballot.

Booths—Closing of Polls.

SEC. 8. There shall be provided, in each precinct, at least one additional booth, for each two hundred voters in the precinct in excess of three hundred, and the polls may be kept open until eight o'clock p. m.: *Provided*, That if more than fifteen minutes pass at any time after six o'clock p. m. without the offer of a vote the polls shall be closed.

Nominees—How Determined.

SEC. 9. The person, in each party, who receives at any primary election, the highest number of legal votes for any public office, shall be the nominee of his party for said office at the ensuing general election; and the person receiving the highest number of legal votes for any party office, shall be declared to be the choice of his party for such office. If two or more persons shall receive the highest and an equal number of votes for the same office, the canvassing board shall immediately, upon the conclusion of a count and before certifying the result determine by lot the person entitled to the office. Certificates of election shall be given by the township board of canvassers to the persons elected to party offices, and the nomination of candidates for public offices shall be certified by the proper township or county canvassing board, as in case of nominations by conventions.

City or Town Officers.

SEC. 10. In case of any primary election, preceding any general election in any city or town for the election of city or town officers only, any person desiring to be a candidate at such primary election shall file his application with the city or town clerk; and the duties of this act required to be performed by township and county officers and boards, shall be performed by corresponding city or town officers and boards.

Contest.

SEC. 11. Any elector who had a right to vote for any candidate, at any such primary election, may contest the election of such candidate before the county central committee of the party to which the contestee belongs, which committee, in case of a contest, shall meet at the court house on the second Tuesday following such election and proceed summarily to hear and determine such contest, and its decision shall be final. The contestor, on or before the first Tuesday after such election, shall file with the clerk of the circuit court his exceptions in duplicate, stating the grounds of the contest. The clerk shall immediately publish notice of such contest in some newspaper of the county, send notice thereof by mail to each member of such central committee and

cause a certified copy of such exceptions to be delivered to the contestee. For the purpose of such contest all papers returned by boards of election shall be preserved until such contests are decided.

Repeal.

SEC. 12. All laws and parts of laws in conflict with this act are hereby repealed.

Emergency.

SEC. 13. There being an emergency therefor, this act shall take effect and be in force immediately upon its passage.

CHAPTER 74.

AN ACT to amend an act entitled an act to prevent any person from unlawfully wearing the badge of the Grand Army of the Republic, Union Veterans, Union Sons of Veterans or Military Order of the Loyal Legion of the State of Indiana, approved February 26, 1891, and repealing all laws in conflict therewith.

[H. 353. APPROVED MARCH 3, 1905.]

Army Organizations—Badges—Unlawful Use.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any person who shall wilfully wear the badge or buttonaire of the Grand Army of the Republic, Union Veterans, National Encampment United Spanish War Veterans, Union Sons of Veterans, Military Order of the Loyal Legion, Naval and Military Order of the Spanish War or Society of Foreign Wars, or shall use or wear the same, or print, or cause to be printed, or use any card or letter containing a printed cut or similitude of such badge or buttonaire to obtain money, aid or assistance, or notoriety thereby, or shall unauthorizedly by person, or in writing, represent that he is a member of the Grand Army of the Republic, Union Veterans, National Encampment United Spanish War Veterans, Union Sons of Veterans, Military Order of the Loyal Legion, Naval and Military Order of the Spanish War, or Society of Foreign Wars, for the purpose of securing funds, aid, or assistance within the State of Indiana, unless he is entitled to use or wear the badge or buttonaire under the rules and regulations and seals of the Grand Army of the Republic, Union Veterans, National Encampment United Spanish War Veterans, Union Sons of Veterans, Military Order of the Loyal Legion, Naval and Military Order of the Spanish War or Society of Foreign Wars, or shall unauthorizedly solicit funds, aid or assistance, on behalf of

such societies or any of their subordinate organizations, in the state, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $20.00.

SEC. 2. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

CHAPTER 75.

AN ACT authorizing the attorney-general to employ assistants to assist him in certain cases, and to provide for their compensation and payment thereof, and declaring an emergency.

[S. 170. APPROVED MARCH 3, 1905.]

Attorney-General—Employment of Assistants.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That the attorney-general is hereby authorized to employ one or more assistants, residing in the city of Washington, District of Columbia, to assist him in the presentation and prosecution of claims of the state against the United States, pertaining to swamp lands, or swamp land indemnity, as he may think necessary.

Limit of Employment.

SEC. 2. The attorney-general shall have power to limit the duration of such employment, and, if not otherwise expressed in the contract of employment, the same shall cease with the term of the attorney-general making such employment.

Compensation.

SEC. 3. As compensation and for all their costs and expenses such assistant or assistants shall receive a sum equal to not more than twenty-five (25) per cent. of the money recovered and turned over to the state, to be fixed in the contract of employment. The state shall not be liable to such assistant or assistants for any other sum, either for compensation or costs: *Provided,* That in case money so recovered is paid into the state treasury without such per centum having been first deducted, the auditor of state shall issue his warrant upon a voucher approved by the attorney-general, for a sum equal to not more than twenty-five per cent. of the money so recovered and paid in; and there is hereby appropriated out of the funds of the treasury not otherwise appropriated such sums as may be necessary for such purpose.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

CHAPTER 76.

AN ACT relating to the abolition of grade crossings at the intersections of steam railroads and streets in cities having a population of not less than forty-three thousand nor more than forty-nine thousand, and providing proceedings for that purpose upon the initiative of the city, prescribing the manner and course of those proceedings, the apportioning of the doing and expense of the work, and authorizing the levy and collection of taxes for that purpose.

[S. 283. APPROVED MARCH 3, 1905.]

Cities of 43,000 to 49,000—Track Elevation or Depression.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That whenever the common council of any city having a population of not less than forty-three thousand nor more than forty-nine thousand, according to the last preceding United States census, shall, in an ordinance passed by at least two-thirds vote, declare the existence of a public necessity for the abolition of grade crossings at the intersections of any steam railroad or railroads within the city limits, and any street or streets of the city, said city shall have the power to institute and prosecute proceedings for that purpose in the circuit court of the judicial district in which said city is located as hereinafter authorized. Such abolition of grade crossings may be accomplished by the raising or elevation of the railroad track above the street, by depressing the railroad track below the street, by viaduct over the railroad track, by subway or tunnel under the railroad track, or by a combination of those methods, one being used at one place or part of the city and another at other places or parts. The word "improvement" in this act shall be taken, unless some other sense is apparent from the context, to designate the whole proposed work in whatever form or combination of forms it shall be planned and undertaken. Such ordinance shall describe the improvement proposed in general terms, or with such particularity as the common council shall think best.

Petition to Circuit Court—Contents—Notice.

SEC. 2. Said city after the passage of such ordinance may file its petition in the circuit court of the judicial district where the same is located, against the owner or owners of such steam railroad or railroads, and the owner of every street or interurban railroad crossing the steam railroad track or tracks at street intersections with the same within the space of the proposed improvement; and also the owners of all real estate which it is supposed will be taken for said improvement or any work incidental thereto, or damaged in consequence thereof, and in or with said petition,

shall set forth said ordinance and a plan of the proposed work; and shall cause notice to be given the defendants to said petition of the pendency thereof, as in civil actions.

Court's Jurisdiction—Pleadings—Trial.

SEC. 3. After service of such notice, said court shall have jurisdiction of the parties to said proceedings and of their property within the county for the purpose of such proceedings and the enforcement of any decree made therein, and all objections to such proceedings or the necessity of the proposed improvement or to the proposed plan of work thereby contemplated, or any desired or necessary changes therein or amendments thereto, shall be set forth in writing by the parties by way of answer. No other pleadings shall be necessary, and these may be amended as the court shall permit at any stage of the proceedings. The court shall try the issues on such petition and answers presented, without a jury, and in addition to the evidence by the parties submitted, may call and examine witnesses if desired, and cause drawings and plans to be made for its aid in framing a proper decree. All witnesses examined shall be subject to cross-examination by any party interested; and all drawings and plans made by order of the court shall be subject to examination by any party interested.

Finding—Appointment of Commissioners.

SEC. 4. Having heard the evidence and argument the court shall find and adjudge, first, whether or no the proposed improvement is necessary for the public safety, health, convenience, or welfare. If the finding and judgment of the court shall be that such proposed improvement is not necessary to the public safety, health, convenience, or welfare, the proceedings shall be dismissed at the cost of the city. If the finding shall be for the petitioner, the court shall set forth in its decree complete plans and specifications of the work necessary to be done in order to accomplish the proposed improvement in the most beneficial and economical manner; and shall appoint three commissioners, one of whom, at least, shall be a competent engineer, and require them to give bond, each for himself, in such sum as the court shall direct with surety to be approved by the court conditioned for the faithful performance of his duty and the accounting for of all money which shall come to his hands as such commissioner, to which commissioners shall be committed such duties in the making of the improvement as shall be provided by law or ordered by the court.

Report by Commissioners—Contents.

SEC. 5. Within such time as the court shall order after the date of their appointment said commissioners shall, after due examination, make a report to the court in which they shall,

First. Describe and allot to each railroad company whose railroad track shall require any alterations of grade, or any viaducts, subways or tunnels at street crossings in the accomplishment of the improvement ordered by the court, the work necessary to be done on, in and about its track or tracks, in order to conform to the decree of the court, including all necessary bridges over, and all retaining walls adjoining streets crossing the railroad track or tracks and so much of all viaducts, subways or tunnels at street crossings as shall be within the boundary lines of the railroad property, but not the approaches outside those lines, with an estimate of the cost of the same for each railroad included in the improvement;

Second. Describe in detail all other work necessary to be done for the full completion of the improvement; including all alterations of grade, gutters, sewers, or other features of construction in streets or sidewalks, with a detailed estimate of the cost of the same;

Third. Describe all private property (other than that belonging to a railroad company whose track is included in the improvement), necessary to be taken in the execution of the proposed improvement as defined in the decree of the court, with an appraisement of the value of each parcel so to be taken, and the name of the owner, if the same can be ascertained by the commissioners.

Fourth. Describe all private property (other than that belonging to a railroad company whose track is included in the improvement) which, not being taken for the work of the improvement, will be damaged by its construction, and assess the amount of such damages to each parcel separately, with the name of the owner, if it can be ascertained by the commissioners.

Fifth. Estimate and assess the special benefits, if any there be, which will accrue to the owner or owners or user or users of any street or interurban railroad the track or tracks of which, occupy the street at the crossing of any steam railroad included in the proposed improvement by reason of the whole proposed improvement in addition to the general benefit which will accrue to such owner or owners from the whole improvement in common with other property owners in the city; the amount of which assessment, or assessments, and each of them shall be paid by the owner or user assessed, to the commissioners, from time to time, as the work progresses and as the court shall order: *Provided*, That the total amount to be paid by the owner or user of any such street or interurban railroad, or the owners or users of all

of them, if there be more than one such street or interurban railroad occupying or using the same crossing, shall not exceed one-fourth of the total cost to the city of the improvement at the crossing or crossings occupied or used by it or them, including damages paid for private property taken or injured by the improvement at such crossing or crossings, but not including any retaining walls or superstructure supporting the steam railroad track within the lines of the railroad company's right of way; and not including any new sewer, made necessary by the improvement beyond the limits of the changes of grade in such street or streets; and for the purpose of giving effect to this section the court shall have power to ascertain by suitable proceedings what was the cost of that part of the improvement in this proviso referred to: *And provided, further,* That the owner of any street or interurban railroad shall not be required to pay annually a larger per cent. of the whole assessment against it than the city is required to pay on its share of such improvement. Which report shall be verified by the commissioners or a majority of them, as a just and true report to the best of their judgment and ability.

Consideration of Report—Notice as to Damages.

SEC. 6. Upon the filing of their report by the commissioners the court shall appoint a day not less than thirty days from the date of such filing on which the report will be considered by the court and objections thereto heard from any persons interested, of which hearing and the date thereof notice shall be given by publication for twenty-one days successively in some daily paper published in the city in which the improvement is located. The notice shall state the names of all the persons to whom damages have been awarded in said report for property to be taken or injured, with a brief description of the property to be taken or injured, and the amount of damages awarded in each case, and notify all persons interested to attend on the day named for the hearing.

Objections—Hearing—Appeal.

SEC. 7. Upon the day named for the hearing any person or corporation interested may object to the report in writing, stating briefly the grounds of his or its objection. All such objections shall be heard and determined by the court without a jury, except objections to the amount of damages awarded by the commissioners in their report for lands taken for the work, and objections to the amount of damages awarded by the commissioners in their report for injuries to lands not taken. As to all such objections the party objecting shall be entitled to trial by jury if he so elects. Every such objector shall be entitled, if he so demands, to have

his objections heard separately from those of other objectors, whether by court or jury, and to make a record for appeal in his own case separately from other proceedings in the case. The objections on the grounds of inadequacy or damages, either for the taking of or injury to property, shall be heard at such times as the court shall fix, and as speedily as possible.

Decree of Court as to Report—New Report.

SEC. 8. When all objections to the report shall have been heard and determined the court shall make a decree in which the report of the commissioners shall be approved in whole, or in part, modified, changed, or amended in any particular, as to the court shall seem just; or the report may, in the discretion of the court, be recommitted to the commissioners for reconsideration with instructions for their guidance in making a new report. In such case upon the filing of the new report, the same proceedings shall be had in respect to notice, hearing, objections and the trial of objections, which are herein prescribed with respect to the original report.

Decree Apportioning Work—Condemnation—Damages, Etc.

SEC. 9. When all questions arising upon the report of the commissioners shall have been determined by the court, the court shall enter a decree fixing and describing that part of the work to be done by the railroad company or companies whose tracks are to be affected respectively, and fixing a time within which it shall be done. The said decree shall also specify and describe all parcels of land which shall be found by the court necessary to be taken for the purpose of the improvement and declare the same appropriated by the state for public use, and fix the amount to be paid to each owner for the same; and shall also specify and describe all parcels of land which will be injured in value by the making of the improvement and fix the amount to be paid to the owner of each such parcel. The said decree shall also fix and describe all that part of the work and improvement to be done by the city other than the work which shall have been directed by the decree to be done by the steam railroad company or companies, and also determine the miscellaneous expenses and damages for taking or injuring property assessed in favor of property owners. This decree shall not be final, but only a preliminary decree under which the work shall be done, to be followed by a final decree upon the completion of the work, as hereinafter directed. If it shall appear to the court that in view of any changes or modifications made by the court in the report of the commissioners, justice requires that a reappraisement or new assessment be made of any values of property, or any damages

stated in the report, the court may order the commissioners to make such reappraisement or new assessment and report the same to the court.

New Trial—Appeal.

SEC. 10. Upon the entry of said preliminary decree any party to such proceeding feeling aggrieved by any decision of the court in the progress of such proceeding shall have the right, as in ordinary civil actions, to file a motion for a new trial, and upon the overruling of the same, shall have a right to appeal to the supreme court of the state in the manner provided for appeals in civil actions, and upon such appeal, the supreme court shall pass upon the questions presented by the motion for a new trial, and otherwise presented by the record, as in civil actions; but no appeal upon the questions of damages for the taking of property or injuries to property shall suspend or delay the making of the improvement. Such appeal shall be taken within six months from the date of the preliminary decree, but the circuit court or the judge thereof in vacation, may for good cause shown before the expiration of said limitation of six months enlarge the time for a period of not more than six months longer.

City's Financial Statement.

SEC. 11. The court shall at such stage of the proceedings as it shall think best, require the city to put on file a statement of the condition of its finances, showing under the oath of the city controller the assessed value of taxable property in such city, the amount of bonded indebtedness, and the amount of floating indebtedness owing by it, the amount of cash on hand, or to be received within a year, not pledged or obligated to any other use and available for expenditure in the cost of said improvement; the rate of taxation in force for the last preceding two years and such other facts as may be required by the court.

Insufficient Funds—Tax Levy—Limit.

SEC. 12. If it shall appear from said verified statement that the city has not in hand, and will not have in hand from its ordinary revenues, an amount of money available to be applied to that purpose sufficient to pay so much of the estimated total cost of the improvement as shall have been imposed upon the city in the preliminary decree of the court aforesaid, it shall be the duty of the court to order the city by its common council and mayor to levy such tax as it may be authorized by the law to levy, sufficient in estimated amount to pay within seven years so much of the estimated total cost of the improvement as shall have been so imposed on the city; provided such levy shall not

exceed the rate of twenty-five cents annually on each one hundred dollars valuation. If the mayor and common council shall neglect or refuse to levy such tax as directed by the court the court shall have power to punish them as for contempt, or at its discretion make the levy itself by an order and direct the proper officers of the city to put the same on the tax duplicate and collect the same, and hold and disburse the money so raised under the order of the court.

Power to Create Special Fund.

SEC. 13. For the purpose of enabling the city in such case to levy the tax required by the foregoing section, power is hereby given to the mayor and common council of any city subject to the provisions of this act to create a special fund in its treasury to be known as the street and railroad crossings fund, and to levy a special tax for the use and maintenance of said fund not exceeding twenty-five cents annually on the hundred dollars valuation. All money raised by such tax shall be placed in said fund and shall be used only to defray expenses of the improvement by this act authorized.

Contracts—Bids—Payment—Bond.

SEC. 14. As soon after the entry of the preliminary decree above provided for as may be practicable, the commissioners shall proceed to cause to be done all that part of said work of improvement not required by the preliminary decree to be done and constructed by the railroad company or companies, whose track or tracks are to be separated from the streets at their intersections. The work shall be done by contract, and under one contract for the whole, or under such separate contracts for such parts as it may be divided into by the commissioners with the approval of the court. Such contract or contracts shall be let to the lowest and best bidder or bidders after the giving of such notice of the letting as shall be prescribed by the court. Each bidder shall state in his bid his willingness to accept in payment for work awarded to and done by him, such proportion of cash as the commissioners may be able to pay and for the residue to accept the certificates of the commissioners hereinafter authorized. Each bid shall be accompanied by a bond with surety to be approved by said commissioners in the full sum of the bid that the contract will be faithfully performed if awarded to the bidder. The commissioners shall report all bids received, and all awards of contracts made to the court for approval and the contracts shall not be in force until approved by the court, and with the approval of each contract the court shall also approve the bond given by the contractor for the performance of his contract.

Commissioners—Reports as to Progress.

SEC. 15. The commissioners shall, from time to time, and as often as may be required by the court, report to the court the progress of the work in their hands, and receive from the court any direction which the court shall give in respect to any part of the work or proceedings. For the purpose of all actions by the court which shall be required by this act, except proceedings in which adversary parties are to be heard, the court shall be always open and the judge in chambers shall have all the powers of the court in session.

Estimates—Pro Rata Payments—Certificate of Indebtedness.

SEC. 16. As the work shall progress under the contracts let by the commissioners by authority of the last foregoing section, the commissioners shall cause estimates to be made from time to time, as may be provided in the contracts, of the amount of work done, and pay the contractors pro rata for the work completed, reserving, however, ten per cent. of the amounts so estimated until the full completion of the contract. If at the time any such payment shall become due, the commissioners shall not have in hand the money necessary to pay the same, they shall issue to the contractor or his order a certificate stating the amount due and payable, and that it will be paid with interest at six per cent. per annum from the date of the certificate whenever funds available for that purpose shall come to the hands of the commissioners; all of which certificates shall be reported to the court for approval, and such approval certified by the clerk under the seal of the court.

Court's Final Decree—Apportionment of Expense.

SEC. 17. The proceedings shall remain open on the docket of the court until full completion of the work of improvement, after which the court shall make a final decree as herein directed. A date shall be fixed by the court on which there shall be a hearing of all matters relating to said improvement which anyone shall desire to present, of which hearing and the date thereof, notice shall be given by publication in some daily paper published in the city in which the improvement is located for not less than ten days successively. At such hearing the court shall ascertain from the testimony of witnesses produced by the parties, or called by the court for its own information, what was the reasonable and proper cost of the work done toward said improvement by the railroad company, or each of them, if there be more than one, under the order of the court in the making of the improvement; and shall also ascertain from a final report which it shall be the duty of the commissioners to file not less than ten days before the hearing, and such other evidence as may be offered by any one

interested or direction of the court, what was the cost of all the work done in the making of the improvement other than that done by the railroad company or companies, and all sums paid for lands taken for the improvement and for injury to lands by reason of the improvement. To these items of cost shall be added all other expenses which, in the judgment of the court, should be included as part of the cost of the improvement; and thereupon the court shall find and adjudge the amount of the entire cost of the improvement, and shall divide and apportion the same among and between the railroad company or companies, severally, whose track or tracks shall have been included in the improvement, and the city, in such shares and proportions as shall seem to the court to be equitable and just within the limits fixed herein in view of all the facts and circumstances affecting the question: *Provided*, first, that in fixing the proportion of cost of the improvement to be paid by the city, no part of said cost beyond the limits of the city shall be imposed upon said city; but the same shall be borne by the railroad company or companies whose tracks are involved in the said improvement: *And provided, further*, That the aggregate amount so apportioned to the railroad company or companies whose track or tracks shall have been included in the improvement shall not be less than sixty-four per cent. nor more than sixty-five per cent. of the entire cost of the improvement within the city limits; and the aggregate sum apportioned to the railroad companies, if there are more than one, shall be by the court apportioned among and between such companies severally: *And provided, further*, That any damages accruing to any property owned by said railroad company or companies, shall not be assessed against said city, but the same shall be borne by said railroad company or companies in addition to the assessment herein authorized to be made against them.

Excess Apportionment—Reimbursement.

SEC. 18. If it shall be found by the court that the cost of the work done by the railroad company or any of the railroad companies whose track or tracks shall have been included in the improvement was greater than the amount of the aggregate cost of the improvement apportioned and charged to such company or companies in the final decree of the court in the last preceding section authorized, each such railroad company shall be entitled to be reimbursed the excess of such cost over the amount so apportioned to it; and in like manner if it shall be found that the amount expended by the city was in excess of the amount so apportioned to it, it shall be entitled to be reimbursed the excess.

New Trial or Appeal from Apportionment.

SEC. 19. Within ten days after the entry of the final decree any railroad company or other party to it, or the city, may file a motion for new trial upon ground of inequality or inequitableness in the apportionment made by the court, and upon the overruling thereof, and within sixty days thereafter, appeal to the supreme court of the state, as in civil actions, and the appeal shall be heard and determined in that court as appeals in civil actions.

Taxation—When Continued.

SEC. 20. If the sum raised by taxation in the city or that raised by taxation in the county shall be insufficient, at the time of the making of the final decree, to pay that part of the cost of the improvement apportioned to the city, and such sums, if any, as the city shall be required to pay for the reimbursement of the railroad company or companies under the decree, the court shall have power and it shall be its duty to direct and enforce the continued collection of taxes in the city, in the same manner hereinbefore directed, until a sufficient amount shall have been realized to pay all such sums.

Postponement of Work, When.

SEC. 21. If, at the time of or prior to the entry of the preliminary decree it shall be, in the judgment of the court, impracticable to proceed with the execution of the work without more ready money on the part of the city than is at that time available, it shall be within the power of the court to postpone the work until such time as sufficient funds shall have been realized from the taxes herein authorized to enable the work to proceed, and until the further order of the court, when the said work shall be resumed.

Improvement—Completed—Unexpended Balance.

SEC. 22. When said work of improvement shall have been fully completed, and all the cost thereof and all incidental expenses necessary to the proceedings shall have been apportioned and fully paid, and not before, the said proceedings shall be discontinued on the docket of the court; and the power of the court to direct and enforce the raising of money by taxation hereinbefore conferred shall continue until that time, and any money then remaining unexpended which shall have been collected by special tax for the purpose of said improvement shall be turned into the general fund of the city in and from which it was collected.

Partial Improvement—Court's Powers.

SEC. 23. If upon or after the making of the preliminary decree, it shall be, in the judgment of the court, impracticable or unwise

for any reason to proceed at once with the execution of the entire work of improvement contemplated in the decree, and there shall be reasons why the abolition of the grade crossing at one or more street crossings forming part of the general plan of improvement should be completed without delay, the court shall have power to order the doing of that part of the proposed work in advance of the remainder thereof. In such case the railroad company or companies interested shall be required to propose and submit to the court a plan and specifications for doing that part of the work, which may be adopted, modified or rejected by the court, upon which the court shall make an order describing and specifying how the work shall be done. And thereupon that part of the work shall be done in accordance with the directions of this act as far as they shall be applicable. All orders made in regard to the expense of the work and the apportionment of such expense shall be made with reference to the fact that it is to be regarded as part of the entire plan of improvement to be eventually carried out, and in those matters a large discretion shall be vested in the court: *Provided, however,* That no general plan of improvement shall be adopted by the court which will compel any railroad company, against its consent, to maintain permanently within the city a gradient greater than three quarters of one per cent. for any distance greater than eight hundred feet.

Readjustment of Assessment.

SEC. 24. If it shall become apparent, in the judgment of the court, at any time in the progress of the improvement that any railroad company, or the city, will be compelled, in order to conform to the orders of the court to expend a larger amount of money on the work than will be apportioned to it in the final decree, it shall be within the power of the court to order payment to such party by any or all of the other said parties of such sum or sums as it may be practicable for it or them to pay which will be clearly within the amounts which it or they will be required to pay for reimbursement under the apportionment to be made in the final decree; and in the final decree such payments shall be taken into account in the apportionment.

Opening or Vacation of Streets.

SEC. 25. It shall be within the power of the court to provide for the opening of any new streets, or the vacation of any old street across the railroad or railroads along which grade crossings are to be abolished as part of the plan of improvement, and all such changes shall be part of the subject matter referred to the commissioners by the court, and they shall include in their report an assessment of benefits and injuries to property affected by such

opening or vacation of any street, and the proceedings in reference to such changes shall conform as nearly as may be to the proceedings provided in the case of opening or vacating streets by the city.

Removal of Poles.

SEC. 26. If in the progress of said improvement, any telegraph, or telephone poles standing upon a public street shall be found in the way, the court shall have the power to order the removal of such poles at the expense of the company owning the same.

Trespass—Penalty.

SEC. 27. After any railroad shall have been improved by the abolition of grade crossings on the same within any city under the provisions of this act it shall be unlawful for any person, not an employe of such company in the discharge of his duty, to go, walk, stand, or be on the right of way belonging to said railroad company within such city except at a station provided by the railroad company for passenger or freight business, and any person so offending shall be punished by fine not exceeding twenty-five dollars.

City Rights Not Abridged.

SEC. 28. Nothing in this act contained shall be taken to repeal or modify any existing law in reference to the power of cities to require and compel the abolition of grade crossings at the intersections of railroads and streets within the city by proceedings other than those authorized and provided in this act; but the remedy herein provided shall be deemed cumulative.

CHAPTER 77.

AN ACT giving boards of park commissioners power and authority to permit the use of a reasonable portion of any public park in any city or town for Chautauqua assembly purposes, and regulating matters connected therewith.

[S. 355. APPROVED MARCH 3, 1905.]

Chautauqua Assembly—Use of Parks.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That boards of park commissioners in all cities and towns of this state, in addition to such powers as are otherwise conferred upon them by law, shall have power and authority to permit the use of a reasonable portion of any public park under their charge for a period not to exceed thirty days in any one year for Chau-

tauqua assembly purposes, and shall have power and authority to permit the persons so using any portion of any public park for Chautauqua assembly purposes to temporarily enclose such portion of any such public park so used and to charge an entrance or admission fee to such part so temporarily enclosed and used as aforesaid: *Provided, however*, That any person or persons so permitted to use any portion of any public park for the purposes aforesaid, shall be required to restore such portion of such park so used to the same condition it was in before such use: *And, provided, further*, That all funds derived from such use of such park after paying the expenses of any such Chautauqua assembly shall be used for park improvements or charitable purposes in such city or town.

CHAPTER 78.

AN ACT entitled an act to amend section seven (7) of an act entitled "An act concerning cruelty to animals, providing penalties against persons who neglect or cruelly treat the same, conferring powers on the officers and members of societies organized for the purpose of preventing such acts of cruelty, and repealing all laws in conflict with this act," approved March 11, 1889.

[S. 97. APPROVED MARCH 3, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That section seven (7) of an act entitled "An act concerning cruelty to animals, providing penalties against persons who neglect or cruelly treat the same, conferring powers on the officers and members of societies organized for the purpose of preventing such acts of cruelty, and repealing all laws in conflict with this act," which act was approved March 11, 1889, be amended to read as follows:

Cruelty to Animals—Definitions.

Section 7. In this act the word "animal" or "animals" shall be held to include all brute creatures, doves, pigeons, and all domestic fowls, and the words "owner," "person" and "whoever" shall be held to include corporations as well as individuals, and the knowledge and acts of agents and all persons employed by corporations in regard to animals transported, owned, or employed by or held in custody of such corporations, shall be held to be the acts and knowledge of such corporations.

CHAPTER 79.

AN ACT for the advancement of agriculture; providing for research and investigation in connection with the production of farm products and stock raising, and making an annual appropriation therefor.

[S 191. APPROVED MARCH 3, 1905.]

Purdue University—Agriculture—Appropriation.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That, in order to aid in acquiring and diffusing among the people of the State of Indiana, useful and practical information on subjects connected with agriculture and to promote scientific investigation respecting the principles of agriculture and of agricultural science, the following sums of money are hereby appropriated to Purdue University for the fiscal year ending October 31st, 1905: $5,000, and $25,000 annually thereafter, said sums to be payable quarterly out of any moneys in the treasury belonging to the general fund not otherwise appropriated, the same to be expended as hereinafter provided.

Appropriation—Uses.

SEC. 2. The sum of $5,000, available during the current year, to be expended at the discretion of the director of the experiment station of said university, to advance the general purposes hereinafter specified. Said sum annually appropriated shall be expended by the agricultural experiment station of said university and in connection with the work of such department along general lines, as follows, to wit: $5,000 in conducting experiments in live stock feeding, having particular regard for beef production; $5,000 in conducting experiments in crop and soil improvement, including tests of varieties of corn, their adaptability to different soils and different sections of the state, and including fertilizer tests; $5,000 in experiments and dissemination of results for the advancement of the dairy interests of the state; $10,000 for the publication and dissemination of results among the people of the state and for advancing the experimental work of the experiment station and securing needed additions to equipment, to accomplish the purposes of this act.

Advisory Committee.

SEC. 3. The work outlined in this act shall be carried out by the said department of said university along lines to be agreed upon by the director of such department and an advisory committee of three persons, one of whom shall be appointed by the Corn Growers' Association of the State of Indiana, and one of whom shall be appointed by the Dairymen's Association of the State of Indiana,

and one of whom shall be appointed by the Live Stock Association of the State of Indiana: *Provided*, Said advisory committee shall be entitled to no compensation for such service.

Emergency.

SEC. 4. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in effect from and after its passage.

CHAPTER 80.

AN ACT to legalize the incorporation of the town of Milltown, Crawford county, Indiana; the election and qualification of its board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws minutes and the proceedings of the board of trustees of said town.

[S. 318. APPROVED MARCH 3, 1905.]

Legalizing Act—Milltown.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all steps taken and acts done in the incorporation of the town of Milltown, Crawford county, Indiana, be and the same are hereby declared to be legal and valid. And all elections of officers of said town of Milltown and all official acts, ordinances, resolutions, by-laws, minutes and proceedings of the board of trustees of said town are hereby declared to be legal and valid: *Provided*, The provisions of this act shall not apply to or affect pending litigation.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 81.

AN ACT to amend section one (1) of an act entitled "An act to provide for the public printing, binding, and stationery, and repealing all laws in conflict therewith, and declaring an emergency, approved April 13, 1895 [1885]."

[H. 52. APPROVED MARCH 3, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That section one (1) of the above entitled act be and the same is hereby amended to read as follows:

State Board of Public Printing—Members.

Section 1. That the governor, secretary of state, auditor of state and reporter of the supreme court shall be ex officio commissioners of the public printing, binding and stationery. Said commissioners shall require and cause the public printing and binding to be performed in the manner provided by law, and within the time prescribed by the contract executed by the contractor to whom such printing and binding may be let, and according to the terms and provisions of such contract.

CHAPTER 82.

AN ACT to provide for the alteration of steam railroad grade crossings and to secure the depression or elevation of steam railroad tracks where the same cross streets or other highways in cities of more than one hundred thousand population according to the last preceding United States census, and authorizing the opening, change and vacation of streets and other highways and change of grades thereof in connection therewith; providing for the payment of the cost of such improvement by railroad companies, street railway companies, and the city and county in which such city is located, and incorporated towns lying within and surrounded by the corporate limits of such city, and declaring an emergency.

[H. 145. APPROVED MARCH 3, 1905.]

Cities of 100,000—Track Elevation or Depression—Board of Public Works—Proceedings.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That upon petition therefor, or upon its own initiative, the board of public works of any city of more than one hundred thousand population, according to the last preceding United States census, may adopt a resolution for the alteration of any grade crossing or crossings of any steam railroad track or tracks and any highway or highways in said city and the approaches thereto, or for the elevation or depression of the steam railroad track or tracks crossing any highway or highways in said city. Upon the adoption of such resolution said board shall cause notice thereof to be published in some daily newspaper of general circulation in such city once each week for two consecutive weeks, which notice shall name a date, after the last day of publication, at which said board shall receive and hear remonstrances from persons interested in and affected by such improvement, and when it will determine the public necessity and convenience thereof; and at the hearing, which may be adjourned from time to time, said board shall consider such remonstrances, if any, and thereupon take final action

and confirm, modify or rescind their original resolution. In addition to the above publication, ten days' written notice of such hearing shall be served on some resident agent or officer of any steam railroad or street railway whose tracks are affected by such proceeding, and upon the county commissioners of the county in which such city is located, and also upon the town clerk of any incorporated town lying within or surrounded by the corporate limits of such city; but failure to give such notice shall not invalidate the jurisdiction of said board in the premises, and all persons shall be deemed and held to be notified of the pendency of the proceedings and of all acts, hearings, adjournments and orders of said board therein by the original notice of publication as aforesaid. In the preparation or consideration of said resolution said board may cause plans and specifications to be prepared by the city civil engineer prescribing the manner, character and limits of such improvement in the alteration of existing grade crossings, or the elevation or depression of tracks thereat, together with an estimate of the total cost thereof: *Provided, however,* That in no case shall such plans require a greater permanent grade of the main tracks of any railroad than one foot in one hundred feet, unless a greater grade be agreed upon by the railroad companies affected.

Improvement—How Apportioned—Division of Expense.

SEC. 2. If there be more than one railroad company with tracks affected, then said board of public works shall, at such hearing determine the relative amount of such improvement equitably to be borne by each of said railroad companies. The expense to be borne by all the parties in interest shall include any expense which may be incurred by raising or lowering the grade of any street, alley or other highway, and the construction and reconstruction of the pavement of the entire width of the street, including sidewalks, and the alteration and construction of necessary drains required by such separation of grades; also the damages, if any, recoverable under existing law by any person, firm or corporation on account of such elevation or depression of tracks, and the cost of the elevation or depression of the railroad track or tracks, except the cost of the ties, ballast and rails of the railroad track or tracks or street railway tracks and the expense of relaying and reconstructing the same; and shall also include that portion of the sum of four thousand dollars per annum herein provided to be paid the city civil engineer, that relates to the time consumed in the construction of such improvement, as shall be determined by the board. The steam railroad or railroads whose tracks are affected shall pay seventy-five per cent. of such total cost. Where such crossing is occupied by the track or tracks of any street railway

company such street railway company shall pay five per cent. of such total cost. Where both street railway tracks and steam railroad tracks occupy said crossing the city shall pay fourteen per cent. and the county in which said city is located shall pay six per cent. of such total cost. Where such steam railroad track or tracks cross any street, avenue or other public way at which there are no street railway tracks, the city shall pay seventeen per cent. and the county in which said city is located eight per cent. of such total cost. In ascertaining the total cost of separating the highway and steam railroad grades at a crossing where the highway is occupied by street railroad tracks, of which five per centum may be apportioned as aforesaid to the street railway company, the cost of elevating or depressing the steam railroad tracks shall be taken into account only from the center of such crossing in each direction to a distance of two hundred feet: *Provided, however*, If any person, firm or corporation has a contract with said city by which such person, firm or corporation has agreed to elevate or depress his or its railroad tracks upon the order of the city or its proper authorities, then such person, firm or corporation shall be required to elevate or depress such track or tracks in accordance with such contract, and the provisions of this act shall not affect the terms of such contract.

Written Agreement.

SEC. 3. It shall be competent for such city, by its board of public works, and any railroad company or companies in respect to whose track or tracks the improvement authorized in this act is contemplated, to enter into a written agreement describing the plan of improvement which will be mutually satisfactory to them and with any other stipulations to which they shall agree, not inconsistent with the provisions of this act, which agreement shall be filed with the said board of public works and shall form the basis of the proceedings thereafter had in relation to the matter embraced in such agreement.

Allotment of Work—Inspectors—Engineer—Appeal.

SEC. 4. Said board shall make its allotment of said work between said steam railroad companies, said city, said street railway company, or any or all of them, and shall communicate its order of allotment to the parties interested within ten days from the time of such allotment. In such order the time for the commencement and completion of such work shall be fixed. The board may employ such inspectors as may be necessary to properly supervise any such work, at a salary to be fixed by it not to exceed sixty-five dollars per month for each such inspector, and also any additional clerk required thereby at a salary to be fixed by it not

to exceed twelve hundred dollars per annum. It may likewise require the services of the city civil engineer, who shall be allowed not to exceed four thousand dollars per annum in addition to his regular salary for his services, and out of which he shall pay his necessary assistants. The action of the board as to the necessity and convenience of such improvement and of the extent or manner thereof, or plans and specifications thereof, and the allotment of the work thereof and apportionment of the cost thereof shall be final and conclusive upon all persons: *Provided*, That any person, firm or corporation deeming himself or itself aggrieved by such order of said board may appeal therefrom to the superior court of the county in which said city is located within fifteen days from the entry of such order. Upon such appeal being taken all parties shall be deemed bound thereby, and said court, all the judges thereof sitting, may modify or confirm [confirm] the order of said board in whole or in part, and the finding and judgment of such court shall be final and binding on all parties and no appeal shall lie therefrom.

Streets—Damages—Notice—Remonstrance—Hearing—Appeal.

SEC. 5. Said board shall likewise provide in such proceeding for the opening, laying out, change or vacation of any street or other public way which may be required by such separation of grades, and the proceedings in relation thereto shall conform as nearly as possible to those provided by the law governing cities of such class. Said board shall likewise determine the damage, if any, which may be recoverable under existing law by any person, firm or corporation on account of such elevation or depression of tracks. Upon the preparation of a list of an assessment of damages, said board shall cause a written notice to be served upon the owner of each piece of property, showing the amount of such assessment, by leaving a copy of the same at his last usual place of residence in said city, or by delivering a copy to such owner personally and shall cause notice to be given by publication in some daily newspaper of general circulation in such city once each week for two consecutive weeks, which shall name a date, not earlier than ten days after receipt of notice or after the last publication, as the case may be, on which said board shall receive and hear remonstrances from any person or corporation touching said assessment of damages, and all persons affected thereby, whether residents or non-residents, shall be deemed to be notified of such hearing by such published notice. Upon the date set for such hearing said board shall consider said assessment and remonstrances and modify or confirm the said assessments, which shall be final and binding, except that any person or corporation thus remonstrating may, within twenty days thereafter, take an appeal to the superior

court in the county in which said city is located and have said assessment, in so far as it affects the person appealing, tried and determined in such court, from the decree of which an appeal may be taken to the supreme or appellate court as in other cases.

Approval of Work—Settlements—Issue of City Bonds.

SEC. 6. The work of such elevation or depression where the same crosses a street or other highway, including abutments at the side of the street, any supporting posts that may be allowed at the curb or center of the street, and the superstructure with reference to drainage and safety, shall be constructed to the approval of the board and city civil engineer. Said board, by its engineer, shall from time to time, and on completion of the same, inspect the work. Upon completion of the work, or from time to time during its progress upon petition of the city or the railroad charged with the work, or part thereof, said board shall adjust equitable settlements between the parties interested therein, in such manner that the total cost of such alteration shall be apportioned between the parties as theretofore decided on by said board; and such adjustment shall be binding on said parties, unless any aggrieved party shall within fifteen days after the entry of the order of the board thereon, file his complaint in said superior court to review such adjustment, and the decree of such court therein shall be final. Upon each such settlement, the city comptroller shall draw his warrant or warrants upon the city treasurer in payment of its portion of such costs, which may be drawn upon the general funds of the city without a special appropriation being made therefor by the city council, but said city council shall upon the estimate of the city comptroller provide by proper levy of taxes for the raising of funds to meet and defray the expense of such separation of grades, and for such purpose said city is authorized to levy a tax of not more than four cents on each hundred dollars of valuation in addition to the annual levy now authorized by law; upon each such settlement, the county auditor shall draw his warrant or warrants upon the county treasurer in payment of the county's portion of such cost, which may be paid out of the general funds without a special appropriation therefor by the county council, but said county council shall provide therefor in its annual levy of taxes; and the city or county is authorized, respectively, to issue bonds for the purpose of paying their respective parts of the cost of such alteration in grade crossings; and the railroad corporation or corporations, including as well the street railway company, shall upon such adjustment, or decree, pay their portion of such cost as directed thereby, or in default thereof the same may be placed on the tax duplicate and collected as are special assessments.

Incorporated Town Within City—Portion of Expense.

SEC. 7. Should any incorporated town lie within, or be surrounded by the corporate limits of such city, then such town and its board of trustees shall be liable to and shall pay to said city such portion of the amount annually paid by said city for separation of grades under the provisions of this act as the total assessed valuation of the taxable property of said town shall bear to the total assessed valuation of the taxable property of said city; such payments shall be made at the end of each year upon demand of said city, and the board of trustees of said town is hereby authorized and required to levy the necessary tax to enable it to carry out the provisions of this section.

Aggregate Annual Expenditure—Debt Certificates.

SEC. 8. Where in any one year resolutions have been finally adopted providing for improvements involving an aggregate expenditure of four hundred thousand dollars, as shown by the estimate or estimates of said board, no further resolution shall be adopted until one year from the date of the order confirming the last preceding resolution: *Provided, however,* Said board may, by resolution or contract with any railroad company or companies, agree upon or order an improvement in the separation of such grades, the cost of which may exceed said sum of four hundred thousand dollars, in which event the work of said improvements shall be so made as to require only the expenditure of said sum of four hundred thousand dollars annually; and to provide therefor, said steam railroad companies, street railway companies, said city and county, are authorized to issue their respective certificates of indebtedness covering such cost, in such manner that not more than four hundred thousand dollars shall fall due in any one year; and no further improvement can be ordered until said certificates are fully paid.

Supplemental to Act of 1891.

SEC. 9. This act shall not repeal any of the provisions of "An act concerning the incorporations and government of cities having more than one hundred thousand population according to the last preceding United States census, and matters connected therewith, and declaring an emergency," approved March 6, 1891, and all acts amendatory and supplemental thereto, but this act shall be deemed and taken to be supplemental to said acts.

Emergency.

SEC. 10. Whereas an emergency exists for the immediate taking effect of this act, the same shall take effect and be in force from and after its passage.

Chapter 83.

AN ACT authorizing any university or college organized or existing as a corporation under any special law, or special charter, having a board of directors, and having capital stock, to provide by by-law or resolution that a certain number of the members of its board shall be members of any church or religious denomination as designated by such by-law or resolution, and declaring an emergency.

[H. 318. Approved March 3, 1905.]

Corporations—University or College Directors—Certificate.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That any university or college organized or existing as a corporation under the provision of any special law, or special charter, enacted or granted by the general assembly of this state, and having a board of directors, and being a corporation having capital stock, may by a vote of a majority of its capital stock at any stockholders' meeting, whether regular or special, of the stockholders of such corporation, by by-law or resolution enacted or adopted at such meeting provided that at least four-fifths of the members of such board of directors shall be members in good standing and full fellowship of and in any church, or religious denomination, as may be named or designated in such by-law or resolution, and in such by-law or resolution provide that at any election of members of such board of directors there shall first be elected persons to the number of at least four-fifths of the total number of members comprising such board in good standing and in full fellowship in such church or denomination: *Provided,* That such by-law or resolution shall be enacted or adopted by, on or before the first day of January, 1907: *And provided, further,* That a certified copy of such by-law or resolution, under the hand of the president of such university or college, or of its board of directors, with the corporate seal of such university or college annexed, and attested by the secretary of such university or college, be filed with the secretary of state of the State of Indiana within three months from the date of the enacting, or adoption, of such by-law or resolution, and upon being thus filed such by-law or resolution shall be taken and deemed to be and as a part of the charter of such university or college.

Emergency.

Sec. 2. An emergency is hereby declared for the immediate taking effect of this act, and the same shall be in full force and effect from and after its passage and approval.

Chapter 84.

AN ACT to legalize the incorporation of the town of Galveston, Cass county, Indiana, the election and qualification of its board of trustees, and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes and the proceedings of the board of trustees of said town, assessments and collection of taxes and other matters connected therewith, and declaring an emergency.

[H. 342. Approved March 3, 1905.]

Legalizing Act—Galveston.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That all steps taken and acts done in the incorporation of the town of Galveston, Cass county, Indiana, be and the same are hereby declared to be legal and valid, and all elections of officers of said town of Galveston and all official acts, ordinances, resolutions, by-laws, minutes and proceedings of the board or boards of trustees of said town, and all tax levies, orders and steps taken for the collection thereof for and within said town, are hereby legalized and declared to be legal and valid: *Provided*, This act shall not affect pending litigation.

Emergency.

Sec. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

Chapter 85.

AN ACT disqualifying certain persons from acting as jurors in suits in the courts of justice of the peace, mayors of cities and in courts presided over by any city judge.

[H. 409. Approved March 3, 1905.]

Justice or Municipal Court—Jurors, When Disqualified.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That it shall not be lawful for any officers charged with the selection of a panel of jurors to serve in any court of a justice of the peace, mayor of any city, or of any court held by or presided over by a city judge of any city, to select any person to serve as a juror in either of said courts, who has served as a juror in either of said courts, during the six months immediately preceding such selection. And any person who shall have served as a juror in any court of a justice of the peace, mayor of any city, or judge

of any city court shall be disqualified to act as a juror in either of such courts at any time within six months after he has so served. And should any person be selected as such juror contrary to the provisions of this act, it shall be sufficient cause for challenge.

CHAPTER 86.

AN ACT entitled an act to legalize special elections heretofore held for authorizing the improvement of county and township roads in any county in this state having a population, according to the last preceding census of the United States of America, of not more than 30,000, and to legalize contracts heretofore made for the construction of any such improvement, and to legalize and make valid any and all county bonds heretofore executed or to be executed on account of any such improvement authorized by any such special election, and to legalize all acts of the board of county commissioners in relation to any such election, contract and bonds, and all acts of the board of county commissioners in relation to the assessment of taxes for the construction of any road authorized by any such special election, and declaring an emergency.

[H. 425. APPROVED MARCH 3, 1905.]

Legalizing Act—County of 30,000—Special Highway Elections.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all special elections heretofore held for authorizing the improvement of county and township roads in any county in this state having a population of not more than 30,000 according to the last preceding census of the United States of America, are hereby legalized and made valid, and all contracts heretofore made for the construction of any such improvement, and all bonds heretofore executed or to be executed on account of any such improvement authorized by any such special election are hereby legalized and declared valid and that all acts of the board of county commissioners in relation to any such election, contract and bonds and all acts of the board of county commissioners in relation to the assessment of taxes for the construction of any road authorized by such special election are hereby legalized and declared valid.

Emergency.

SEC. 2. An emergency is hereby declared for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

Chapter 87.

AN ACT concerning highways located on abandoned railroad right of ways, and providing for the repair of the same as free gravel roads.

[S. 26. Approved March 4, 1905.]

Highways—On Abandoned Railroad Right of Way.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That any highway located or that may be hereafter located upon any abandoned railroad right of way within the state, shall become a free gravel road and a part of the free gravel road system of this state, and shall be kept in repair thereafter the same as other free gravel roads are kept in repair, and shall be subject to and governed by the same laws governing the repair and keeping in repair of free gravel roads: *Provided*, That such highway shall be in good condition and repair as a gravel road or turnpike when this act shall take effect, or shall thereafter be put in good condition and repair.

Chapter 88.

AN ACT providing for the drawing, summoning and impaneling of juries from adjoining counties in certain criminal cases, and declaring an emergency.

[S. 104. Approved March 4, 1905.]

Jurors from Adjoining Counties—Order—Transcript.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That when a prosecution for a felony is pending in any court of this state having jurisdiction, and before or during the impaneling of a jury therein, the judge of such court shall be satisfied, after having made a fair investigation in good faith for that purpose, that from any cause it will be improbable that a jury, without bias or prejudice, can be obtained within the county wherein the prosecution is pending, he shall enter an order of such determination and shall include in such order a request upon the judge of the circuit court of an adjoining county to be named in such order, to forthwith procure the drawing of names for a jury to be summoned to appear before the court to serve as jurors in such cause at a time to be named in such order. And the clerk of the court wherein such order is made shall forthwith transmit a transcript of such order to the judge of the circuit court of the county therein named.

Duty of Jury Commissioners—Summons by Sheriff.

SEC. 2. Immediately upon the receipt of such transcript, the judge of the circuit court to which such transcript is addressed shall call together the jury commissioners of the county therein named, and such jury commissioners shall immediately proceed to draw from the jury box of such county twenty-five names. Such drawing to be in all respects as provided for the drawing of jurors in other cases, and the clerk of such circuit court shall immediately certify the list of names so drawn to the clerk of the circuit court of the county wherein said cause is pending and shall also issue a summons directed to the sheriff of his county for such persons to appear at court where said cause is pending at the time named in the transcript aforesaid, and such sheriff, upon the receipt of such summons shall immediately summon said persons and shall forthwith make return of service of such writ to the court, where said cause is pending.

Additional Jurors—Summons.

SEC. 3. If upon the impaneling of the jury, it shall be found that a fair and impartial jury can not be secured from the names selected as provided in the foregoing section, then the sheriff of the county where said cause is pending shall be ordered by the judge of such court to proceed to an adjoining county and summon from the body of its citizens a sufficient number of qualified resident freeholders of such county to complete such panel.

Attachment—Contempt.

SEC. 4. If any person so summoned as herein provided shall fail to obey such summons he shall be subject to attachment and proceedings for contempt by the court where said cause is pending, the same as in other cases.

Compensations.

SEC. 5. The sheriff, clerk, jurors or other officer shall receive for their services the same fees, mileage and per diem as are provided by law for like services in other cases, to be paid by the county in which said cause originated upon the order of the court trying the same.

Emergency.

SEC. 6. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

Chapter 89.

AN ACT to amend sections eighteen (18) and twenty-three (23) of an act entitled "An act concerning common schools in cities having more than one hundred thousand population, providing penalties for the violation of the provisions thereof, and declaring an emergency," approved March 4, 1899, and also to amend section one of an act amendatory of section five (5) of the act last named, said amendatory act being entitled "An act to amend section five of an act entitled 'An act concerning common schools in cities having more than one hundred thousand population, providing penalties for the violation of the provisions thereof, and declaring an emergency,' approved March 4, 1899, and declaring an emergency," approved March 12, 1901, and declaring an emergency.

[S. 134. Approved March 4, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That section eighteen (18) of an act entitled "An act concerning common schools in cities having more than one hundred thousand population, providing penalties for the violation of the provisions thereof, and declaring an emergency," approved March 4, 1899, be amended to read as follows:

Cities of 100,000—School Boards—Auditor—Assistants—Duties, Etc.

Section 18. The auditor shall submit to the commissioners annually and oftener if required by them a report of the accounts of the board, verified by his oath, exhibiting the revenues, receipts, disbursements, assets and liabilities, the sources from which the revenues and funds are derived, and in what manner the same have been disbursed. He shall give bond for the faithful discharge of his duties in the sum of five thousand dollars ($5,000.00), with not fewer than two sureties, or a surety company, to the approval of the commissioners, which bond shall be filed with the secretary. The auditor of said board shall receive no compensation for his services as auditor, but the board shall provide for the appointment of such assistants for the auditor as it shall deem necessary, and fix their compensation, which shall be paid monthly, out of the school funds, but such assistants shall be appointed by the auditor. The time of such assistant or assistants shall be at the command of the board to render such services in addition to those already prescribed by law as the board shall require.

Buildings, Repairs, Etc.—Business Director—Bids.

Sec. 2. That section twenty-three (23) of said act named in section one hereof be amended to read as follows:

Section 23. When the board determines to build or enlarge a school house, or make any improvement of [or] alterations thereon, the cost of which shall exceed five hundred dollars ($500.00), save when by formal vote the board decides to make such improvements at a cost of not to exceed two thousand five hundred dollars by the labors of its own employes, the business director shall advertise weekly for bids for a period of three weeks, beginning at least twenty-one days before the opening of the bids. The advertisement shall be inserted in two newspapers of general circulation in the city and shall be entered in full in the records of the board. The bids duly sealed shall be presented to the board at the time fixed in the advertisement for bids, at which time the board shall meet, and none shall be received after that hour, and they shall immediately be opened by the business director, be publicly read by the secretary and be immediately thereafter entered in full in the records of the board. The board shall provide by general rules the conditions of all bids, but none but the lowest responsible bids shall ever be accepted. The business director may, at his discretion, reject all bids and whenever there is any reason to suspect collusion the bids of all concerned therein shall be rejected. If the amount of the expenditure does not exceed two thousand five hundred dollars ($2,500.00) two weeks' notice shall be sufficient.

Organization of Board—Secretary—Treasurer—Salaries.

Sec. 3. That section one of an act entitled "An act to amend section five (5) of an act entitled 'An act concerning common schools in cities having more than one hundred thousand population, providing penalties for the violation of the provisions thereof, and declaring an emergency,' approved March 4, 1899, and declaring an emergency," approved March 12, 1901, be amended to read as follows:

Section 1. Be it enacted by the General Assembly of the State of Indiana, That section five (5) of an act entitled "An act concerning common schools in cities having more than one hundred thousand population, providing penalties for the violation of the provisions thereof, and declaring an emergency," approved March 4, 1899, be amended to read as follows:

Section 5. The board of school commissioners shall organize annually at their first regular meeting in January by choosing one of their number president, another vice-president, electing a secretary, who shall not be one of their number, and who shall receive a salary to be fixed by the school commissioners, which salary shall not exceed $2,000.00 per annum. The term of office of the secretary shall be one year, but whenever the secretary, who shall have served one year, shall be re-elected to succeed

himself his term shall be four years. *Provided, however,* That he shall be removable at any time by a vote of four-fifths of the entire board. The treasurer of the city shall be treasurer of the board and he shall receive a salary to be fixed by the school commissioners, which shall not exceed fifteen hundred dollars per year. The treasurer shall make a monthly statement to the board of the amounts received and expended during the month, and the amount on hand to the credit of the board. He shall give bond to the approval of the board in such sum as it may determine and with not fewer than two sureties or a surety company.

Emergency.

SEC. 4. An emergency exsting for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 90.

AN ACT to amend section 2 of an act entitled "An act concerning libraries, providing for the establishment of traveling libraries and township libraries, providing for the appointment of officers for the control and management of such libraries; providing for the levy, collection and distribution of taxes for township libraries, providing for the appropriation and distribution of certain funds, repealing all laws in conflict therewith, and declaring an emergency," approved February 24, 1899, and repealing all laws in conflict therewith.

[S. 140. APPROVED MARCH 4, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 2 of the above entitled act be and the same is hereby amended to read as follows:

Public Library Commission—Office—Duties—Employes.

Section 2. Said public library commission shall be assigned a permanent office room in the state house, with storage and shipping rooms in the basement of the same sufficient for the performance of its duties. It shall have the custody, control and management of the traveling libraries hereinafter provided for, shall purchase the books and collections of books therefor, and the equipment for the same; shall adopt rules and regulations for loaning such books and collections of books to library associations, and to the persons entitled to borrow the same, and shall provide for and require such security and guaranty for the safe return of such books or collections of books as may be deemed advisable; shall prepare lists of books suitable for public libraries and obtain prices for the same, and furnish such lists when

required; shall furnish information or advice as to the organization, maintenance or administration of any library in the state. It shall also provide courses of library instruction, print lists and circulars of information and perform such other service in behalf of public libraries as it may consider for the best interests of the state. The said commission shall employ a secretary and such other assistants as shall be requisite for the performance of the services above specified, who shall serve under the direction of the commission. The commission shall each year obtain reports of all libraries in the state, and on October 31, 1906, the commission shall make a full report to the governor as to the library conditions and progress in Indiana. This report, when printed, shall be presented to the general assembly of the State of Indiana, and biennially thereafter a like report shall be made. These reports shall be printed and bound by the state printing board, the same as other public documents, and shall be distributed by the public library commission.

Repeal.

SEC. 2. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

CHAPTER 91.

AN ACT providing for the management, maintenance and taking care of public or private cemeteries.

[S. 181. APPROVED MARCH 4, 1905.]

Cemeteries—Conveyance to Township—Management.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That where any cemetery association, corporation, church organization or individual, who is the owner of any lands which are used as public or private burial places for the dead, and who shall be vested with sufficient title to convey such lands in fee simple, and shall make application to the township trustee of the township in which such lands are situated to convey such grounds, to be used by such township for a public cemetery, then it shall be the duty of such township trustee to take said title to said lands as a donation and such lands so conveyed shall be the property of said township. That when said lands are acquired as aforesaid, then it shall be the duty of the trustee of said township to appoint a board consisting of three directors to take charge of any cemetery in said township which already belongs to said township or may be acquired by the provisions of this act, and the order

appointing said directors shall designate by name the cemetery or cemeteries over which they are to have supervision. The first directors appointed under this act shall hold their offices, one for one year, one for two years and one for three years from the second Monday in May after their appointment or until their successors have been appointed and qualified; thereafter one director shall be appointed each year to serve three years from the second Monday in May succeeding his appointment. All such directors when appointed shall have the entire charge and control and of the laying off and embellishing the grounds. They may also plat said grounds and take charge of the receipts arising from the sale of lots. They may receive donations by bequest, devise or deed of gift, or otherwise, or money or other property, the principal or interest of which is to be used for the enlargement, embellishment or care of the cemetery grounds generally, or for the embellishment, care of or improvement of any particular part or parts of lot or lots therein, as the donor may direct, or as the directors may from time to time determine, if no direction is given. And they shall appoint one of their number to sell lots, receive payment therefor, direct the improvements and make the expenditures under such rules and orders as they shall prescribe. It shall be their duty to keep all such cemeteries in good repair, and for the expenses in so doing the township trustee shall have the right to turn into the hands of said board of directors out of the township funds in his hands a sufficient amount each year to make needed repairs on said cemeteries: *Provided*, The donations and sale of lots are not sufficient to meet such expenses.

Chapter 92.

AN ACT for the relief of Samuel S. Eash, of Lagrange county, Indiana, authorizing and directing the governor to issue to him a patent to certain real estate, and relinquishing the claims of the State of Indiana to said real estate and declaring an emergency.

[S. 210. Approved March 4, 1905.]

Preamble.

Whereas, By the act of congress known as the Swamp Land Act certain lands within the State of Indiana were ceded by the United States to the State of Indiana, including the southeast quarter of the northwest quarter of section 22, in township 36 north, and range 8 east, the same being in Lagrange county, Indiana; and

WHEREAS, Said tract has never been sold by the State of Indiana, as appears by the record of swamp lands in the office of the auditor of state, but said tract was entered on the tax duplicate of Lagrange county, Indiana, for taxation in the name of the Ft. Wayne & Chicago railroad company, and at the regular sale of lands for delinquent taxes in February, 1871, said tract was in good faith sold by the treasurer of Lagrange county, Indiana, to Butler Gilbert, for the taxes against said land for the years 1869 and 1870, and a tax deed afterward issued to said Butler Gilbert for said tract; and

WHEREAS, Said land was purchased from said Butler Gilbert by Samuel S. Eash on the 31st of May, 1898, for $500 cash, said Eash believing that said Butler Gilbert was the lawful owner and the holder of the legal title to the same, an abstract of title to said property being furnished him, and said Eash being a foreigner and ignorant of such matters, believed that an abstract was conclusive evidence of a good title; and

WHEREAS, Said Eash has, since said date, paid state and county taxes on the same and has paid a drainage assessment of $50 against the same; and

WHEREAS, Said land is very low, so much so that it was mostly made up of swamps and marshes, covered with "scrub" and brush, there being no timber on it of any value; and in order to make it productive it was necessary for said Eash to construct many ditches across and around it, one of said ditches being a covered tile ditch, eighty rods long, in which were used five and six-inch tile, and one 160 rods long, which is 14 feet wide at the top, 4 feet deep and 6 feet wide at the bottom; and all of the surrounding land for several miles being so low and swampy that said tract is almost inaccessible, and was utterly valueless before any improvements were made by said Eash and his grantor, said tract being situated 14 miles from the county seat and five miles from any railroad station; therefore equity and good conscience require that the said Samuel S. Eash should have the legal title to said property; therefore

Governor—Land Patent—Samuel S. Eash.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That upon the payment by Samuel S. Eash to the auditor of state, for the use and benefit of the State of Indiana, as purchase price of said land, the sum of $1.25 for each acre in said tract, the governor of the State of Indiana is hereby authorized and directed to cause a proper patent to be issued to said Samuel S. Eash for the southeast quarter of the northwest quarter of section 22, in township 36 north, and range 8 east, in Lagrange county, Indiana, and the State of Indiana will thereupon relinquish all claims thereto in favor of said Samuel S. Eash.

Emergency.

SEC. 2. An emergency is hereby declared to exist for the immediate taking effect of this act, and therefore the same shall take effect and be in force from and after its passage.

CHAPTER 93.

AN ACT to authorize the board of commissioners of the county of Wayne to lay off and plat certain real estate and to sell and convey the same, and providing for the appraisement thereof, and declaring an emergency.

[S. 261. APPROVED MARCH 4, 1905.]

Preamble.

WHEREAS, The board of commissioners of the county of Wayne, as a body corporate, is the owner, for the use and benefit of the county of Wayne, of the following described real estate in the city of Richmond, in Wayne county, to wit: Lot number fifty-four (54), in Earlham Place, laid out by Hugh W. Maxwell, in the northeast quarter of section six (6), in township thirteen (13), of range one (1) west, and fully described on a plat of said Earlham Place, filed for record January 20, 1875, in Wayne county, State of Indiana; and

WHEREAS, Said real estate is no longer needed or used for any public purpose or for the uses of said county, and it is for the best interests of said county that the same should be laid off and platted as an addition to the city of Richmond and sold; therefore,

County Commissioners—Wayne County—Sale of Land.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That the board of commissioners of the county of Wayne be and is hereby fully authorized and empowered to lay off and plat, as an addition to the city of Richmond, Wayne county, Indiana, the following described real estate in said city, to wit: Lot number fifty-four (54), in Earlham Place, laid out by Hugh W. Maxwell, in the northeast quarter of section six (6), township thirteen (13), of range one (1) west, and fully described on a plat of said Earlham Place, filed for record January 20, 1875, in Wayne county, State of Indiana. And the said board of commissioners is fully hereby authorized and empowered to sell all or any part of said real estate at private sale, without notice, by such lots or parcels as it shall deem most expedient, and to convey the same by proper deed or deeds to the purchaser or purchasers thereof.

Appraisement.

SEC. 2. Before making sale of any of the said real estate, said board shall cause any portion or parcel thereof it may desire to sell to be first appraised by two freeholders of the county, to be appointed by the judge of the Wayne circuit court. Said appraisers shall be first duly sworn to make a just and true valuation of the said real estate, and shall make their appraisement in writing, under oath, and shall file the same with the auditor of said county, and any portion of the said real estate so appraised shall be sold for not less than the full appraised value thereof.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

CHAPTER 94.

AN ACT concerning libraries in cities having a population of more than fifty thousand (50,000) and less than one hundred thousand (100,000), according to the last preceding United States census, and providing for the levy of a tax in aid of the same and matters connected therewith, repealing all laws in conflict herewith and declaring an emergency.

[H. 134. APPROVED MARCH 4, 1905.]

Cities of 50,000 to 100,000—Libraries—Tax.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That whenever there has been established by private donation in any city of this state having more than fifty thousand (50,000) and less than one hundred thousand (100,000) population, as shown by the last preceding United States census, a library containing twenty-five thousand volumes or more, and having property including real estate and the buildings used for said library of the value of one hundred thousand dollars ($100,000) or more, which library by the terms of the donation aforesaid is open and free to the use and benefit of all the inhabitants of such city, there shall be levied and collected annually by such city, as other taxes are collected, not less than five nor more than ten mills upon each one hundred dollars of the assessed valuation of all the real and personal property in said city, and when collected shall be paid over to the trustees of such library and shall be by them expended in the purchase of reading matter for such library, and for no other purpose; and they shall keep such tax separate from all other funds, and in a proper book kept by them shall show the amount of taxes received, to whom and when paid

out and for what purpose, and shall make an annual report of these matters to the common council of such city.

Repeal—Emergency.

SEC. 2. All laws or parts of laws in conflict with the provisions of this act are hereby repealed; and whereas an emergency exists for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

CHAPTER 95.

AN ACT to amend section 1 of an act to amend section thirteen (13) of an act entitled "An act further regulating the furnishing of books for the use in the common schools of the State of Indiana, authorizing township trustees and school boards in certain instances to sell such books to merchants and dealers, providing for the revision of such books at the cost of the contractor when deemed necessary by the state board of school book commissioners, and their continuance in use when so revised, providing for the introduction of an intermediate grammar or language lessons if deemed necessary by such board, prescribing the duties of school officers, dealers and contractors in such books, providing penalties for the violation thereof, empowering said board to require new bonds of contractors in certain cases, making an appropriation to carry out the provisions of the act, and declaring an emergency," approved February 28, 1893, approved March 11, 1901, repealing all laws in conflict therewith and declaring an emergency.

[H. 21. APPROVED MARCH 4, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 1 of an act to amend section 13 of the above entitled act be amended to read as follows:

State Board School Book Commissioners—Revision—Contract.

Section 13. In no case shall any revision be required of any book or books used in the common schools of this state oftener than once in every ten years, except copy books, histories and geographies, and all contracts for furnishing said books except histories, copy books and geographies, shall be for a period of ten years, and contracts for furnishing histories, copy books and geographies shall be for a period of five years: *Provided,* That this act shall not be construed to extend or affect any existing contract: *And, provided further,* That the state board of school book commissioners shall have the right, by a vote of two-thirds of its members, to cancel the contract for the use of any school book at the expiration of five years, if satisfied that the use of said book would not be for the best interests of the schools of the state.

Repeal.

SEC. 2. That all laws and parts of laws in conflict herewith are hereby repealed.

Emergency.

SEC. 3. An emergency is hereby declared to exist for the immediate taking effect of this act, and the same shall be in force from and after its passage.

CHAPTER 96.

AN ACT to regulate the manner of appointing special judges to try cases in the circuit and superior courts of this state.

[H. 95. APPROVED MARCH 4, 1905.]

Civil Procedure—Change of Venue from Judge—Special Judge.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That hereafter whenever a change of venue is taken from the judge, in any civil action, pending in any circuit or superior courts of this state, or in any case where the presiding judge of such court is disqualified from any cause to try such cause, if the parties to such action agree, in writing, upon some judge or member of the bar of any court in this state to try said cause—which written agreement shall be filed with the clerk of said court—it shall then be the duty of the court to appoint such judge or attorney so agreed upon to preside as judge in said cause: *Provided,* The provisions of this act shall not apply to proceedings in divorce.

CHAPTER 97.

AN ACT to repeal section seven of an act entitled "An act to amend sections three, four, seven, eleven, thirteen and sixteen and to repeal section six of an act for the better protection and preservation of game of the State of Indiana, requiring certain persons to take out license to hunt, creating a fund for the better protection and preservation of game and fish, providing penalties for a violation of this act or any of its provisions, regulating matters properly connected therewith, repealing conflicting laws and declaring an emergency, approved March 11, 1901, adding a supplemental section thereto making it unlawful to hunt with ferrets, and providing a penalty for violating such section, repealing all laws and parts of laws in conflict herewith, and declaring an emergency."

[H. 124. APPROVED MARCH 4, 1905.]

Game Law—Repeal.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section seven (7) of the act entitled "A bill for an

act to amend sections three, four, seven, eleven, thirteen and sixteen and to repeal section six of an act for the better protection and preservation of game of the State of Indiana, requiring certain persons to take out license to hunt, creating a fund for the better protection and preservation of game and fish, providing penalties for a violation of this act or any of its provisions, regulating matters properly connected therewith, repealing conflicting laws and declaring an emergency, approved March 11, 1901, adding a supplemental section thereto making it unlawful to hunt with ferrets, and providing a penalty for the violating such section, repealing all laws and parts of laws in conflict herewith, and declaring an emergency," approved March 9, 1903, and published at page 395 of the printed acts of that year, be and the same is hereby repealed.

Chapter 98.

AN ACT regulating the practice of veterinary medicine and surgery, providing for the issuance of licenses to practice, providing for the appointment of a state board of veterinary medical examiners, and defining their duties, defining certain misdemeanors and providing penalties, and providing that only licensed practicing veterinarians may be appointed to certain offices, and repealing all laws in conflict therewith and a certain act therein specified.

[H. 267. Approved March 4, 1905.]

Veterinary Medicine or Surgery.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That it shall hereafter be unlawful for any person to practice veterinary medicine or surgery in Indiana who has not first obtained a license so to do, as herein provided.

State Board—Appointment—Terms—Removal.

Sec. 2. A state board of veterinary medical examiners, composed of four members, shall be appointed by the governor within thirty days after this law goes into effect. Said board shall consist of reputable, practicing veterinaries who are graduates of any veterinary college of good repute, and shall be non-partisan, not more than two members thereof to be of the same political party. Two of its members shall be appointed for two years, and two for four years, and at the expiration of such terms their successors shall be appointed for a period of four years. The governor shall have power to remove any member of the board for incompetency, gross immorality, abuse of his official power, or for any other good cause, and may fill any vacancy occasioned by removal, death, resignation or otherwise.

License to Practice—Examination—Fee.

SEC. 3. After this law goes into effect, any person desiring to begin the practice of veterinary medicine and surgery shall procure from the state board of veterinary medical examiners a license, showing that such person is entitled to practice veterinary medicine and surgery in the State of Indiana, and in order to procure such license the applicant shall submit to the state board of veterinary medical examiners his diploma, with an affidavit setting forth that the affiant is the person to whom such diploma was issued. Such application shall be accompanied by the affidavits of two freeholders resident in the same county in which the applicant resides, stating that the applicant is the person named in the accompanying diploma and application for license. Diplomas received by this board shall be returned to the person owning the same. Said applicant shall pay to said board the sum of five dollars at the time of making such application.

Present Practitioners—Fee.

SEC. 4. All persons practicing veterinary medicine and surgery in the State of Indiana when this law goes into effect, and desiring to continue the same, shall, within ninety days thereafter, obtain a license showing that they are entitled to do so by presenting to the state board of veterinary medical examiners the license possessed by them at the time of the passage of this law, together with an affidavit that they are the legal possessors of the same, and the persons mentioned therein; and such applicant shall pay to the board the sum of one dollar at the time of making such application. The said board shall thereupon investigate the circumstances connected with the granting of the license so presented, and if it finds that the same was properly issued pursuant to the provisions of law approved March 11, 1901, entitled "an act to define veterinary medicine and regulating the practice of veterinary surgery or any branch thereof in the State of Indiana," or that the applicant holds a diploma from a veterinary school of a required standard, shall issue to such applicant a license to practice veterinary medicine and surgery in the State of Indiana.

Presentation of Diploma or Examination—Fee—Appeal.

SEC. 5. In the event that the applicant desiring to begin the practice of veterinary medicine and surgery shall present a diploma from a veterinary medical college which is not recognized by the board as maintaining a sufficiently high grade or standard of education, as defined and fixed in the records of the board, and in the event that an applicant practicing veterinary medicine and surgery in the state prior to the passage of this act, is not lawfully entitled to the license heretofore granted him, and does

not hold a diploma from a veterinary medical school of the required standard, the applicant shall have the privilege of being examined as to his qualifications to practice veterinary medicine and surgery in such manner as the board shall provide. If he shall pass examination satisfactory to the board, he shall receive a license the same as if he had presented a satisfactory diploma or license. Should he fail to pass such examination, he shall be permitted to submit to another examination within twelve months from the time of the first examination. All persons taking such examination shall pay the said state board of veterinary medical examiners the sum of ten dollars, said payment entitling them to re-examination in case of failure at the first or any subsequent examination. Should any such applicant fail to pass the examination prescribed by said board, he shall have the right to an appeal to the circuit or superior court of the county in which such examination shall have been held, requiring said board to show cause why such applicant should not be granted a license to practice veterinary medicine and surgery, upon the applicant giving a good and satisfactory bond approved by such court, to secure the cost of such appeal, should the appeal be determined against him.

Meetings of Board—Powers and Duties—Compensations.

SEC. 6. The state board of veterinary medical examiners shall hold regular meetings at such place as may be fixed by the board on the second Tuesday of July and the second Tuesday of January of each year, and as often in addition as may be necessary for the transaction of such business as may properly come before it under the provisions of this act. It shall have the power to make all necessary rules and regulations for the transaction of its business. The board shall elect a president, secretary and treasurer. For their services the members shall receive the sum of five dollars per day and their traveling expenses necessarily incurred in attendance upon the business of the board. It shall be the duty of the board to keep the record of all applications for licenses, and such record shall contain all the facts in such applications, including the action of the board thereon. The compensation of the members of the board shall be paid out of the fees received under the provisions of this act, and no part of the salary or other expenses of the board shall be paid out of the state treasury. All moneys received by said board as fees, in excess of the compensation and expense of said board, shall be annually paid into the state treasury, for the benefit of the common school fund of the state, and all penalties imposed by this act shall also, when collected, be paid into said fund. Should not sufficient be realized from the fees to pay the salaries and expenses of the members of the board, then the amount so received shall be properly pro-rated among the

members. The treasurer of said board shall give bond in the sum of two thousand dollars, sureties to be approved by the governor, which bond shall be filed with the auditor of state.

Record—Schedule of Requirements—Rules.

SEC. 7. The board shall from time to time establish and record in a record kept by them for that purpose a schedule of the minimum requirements that must be complied with by applicants for licenses to practice veterinary medicine and surgery before they shall be entitled to receive a license. The board shall also in like manner establish and cause to be recorded in such record a schedule of the minimum requirements and rules for the recognition of veterinary colleges, so as to keep these requirements up to the average standard of veterinary education in other states. No change shall be made to have any retroactive effect or that shall affect the students theretofore matriculated. Such record shall be at all times open for examination by the public. The board shall have power to make and establish necessary rules and regulations for reciprocal recognition of certificates issued by other states, and prevent unjust and arbitrary exclusions by other states, of graduates in veterinary medicine and surgery from this state who have fulfilled its requirements.

Applications—Examination of Facts.

SEC. 8. When application for license is made and diploma or license submitted as herein provided, it shall be the duty of the board to determine from the evidence submitted whether such diploma or license rightfully belongs and was issued to the person making such application for license, and whether the veterinary college conferring such diploma maintains a standard of veterinary medical education conforming to that fixed by the board, and whether the application otherwise complies with the rules of the board. If these facts are shown by competent evidence it shall be the duty of the board to issue a license signed by its president and secretary, and over its official seal, stating that the person applying for such license and possessing such diploma or license is entitled to a license to practice veterinary medicine and surgery in the State of Indiana. Said license shall be nonassignable and nontransferable. The board shall have the right to review the evidence upon which a license has been obtained, and if it shall be found that said license has been obtained by fraud or misrepresentation the board shall revoke such license.

Refusal to Grant License—Appeal.

SEC. 9. The board may refuse to grant a license to any person guilty of felony, gross immorality or addicted to the liquor or drug

habit to such a degree as to render him unfit to practice veterinary medicine or surgery, and may, after notice and hearing, revoke any license which may have been granted to any person guilty of the above enumerated acts. An appeal may be taken from the action of the board to the circuit or superior court of the county in which the license was refused or revoked by the board on the applicant giving a good and satisfactory bond in the sum of two hundred dollars, to be approved by the court, to secure the cost of such appeal, should the appeal be determined against him. It shall be the duty of the attorney-general and of the prosecuting attorney of the court to which an appeal from any action of the board may be taken to represent the board in any such appeal, and in case such board shall be sustained upon appeal a fee of twenty dollars shall be taxed as a part of the costs in favor of the prosecuting attorney.

Display of License—Penalty for Failure.

SEC. 10. Any person, qualified, as required by this act shall upon his receipt of his license to practice, display said license in his office. Whoever shall fail to display his license in said office shall forfeit his license, and no license when once forfeited shall be restored to the original holder except on the payment to the state board of veterinary medical examiners of the sum of twenty-five dollars as a penalty for such failure, neglect or refusal.

Veterinary Practice Defined.

SEC. 11. The practice of veterinary medicine or surgery within the meaning of this act, shall include any act or operation upon and the prescribing or giving of medicine for the relief of disease of or injury or accident to any domestic animal, for the correction of habit, defective act, deformity or vice, and the practice of obstetrics and dentistry upon any domestic animal. Nothing in this act, however, shall be construed to prohibit veterinaries from other states in consultation or members of the medical profession from prescribing for domestic animals in case of emergency, or prevent persons from practicing veterinary medicine or surgery upon animals belonging to themselves, or from performing the operation of castrating, spaying, obstetrics, and dehorning, or prevent assistance rendered in emergencies, or from rendering assistance on request of neighbors, nor shall this act apply to commissioned veterinary surgeons in the United States army.

Right to Title—Penalty.

SEC. 12. The right to use the title, veterinarian, veterinary surgeon, doctor of veterinary medicine or surgery, or any deriva-

tion thereof, shall be limited to those licensed to practice under this act. It shall be unlawful for any other person to use said titles, and any person so doing shall be guilty of a misdemeanor and subject to a fine of not less than twenty-five dollars nor more than fifty dollars.

Prescription Work.

SEC. 13. All persons qualified under this act to practice medicine and surgery shall have the same recognition in prescription work as now accorded to regular practitioners of medicine by druggists and pharmacists.

Exempt from Jury Duty.

SEC. 14. Any person practicing veterinary medicine or surgery and having a license under this act, shall be exempt from jury duty.

Practicing Without License—Penalty.

SEC. 15. To open an office for such purposes, or to announce to the public in any way an intention or readiness to practice veterinary medicine or surgery in any county of the state shall be to engage in the practice of veterinary medicine within the meaning of this act. Any person who shall practice or hold himself out as practicing veterinary medicine or surgery in this state, without having a license duly issued by the state board of veterinary medical examiners, as hereinbefore provided, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than five dollars nor more than one hundred dollars.

Reports by Board to Governor.

SEC. 16. The board shall make an annual report to the governor and to the state veterinary medical association.

Repeal.

Sec. 17. All laws and parts of laws in conflict with this act are hereby repealed, and also an act entitled "an act to define veterinary medicine and regulating the practice of veterinary surgery or any branch in the State of Indiana," approved March 11, 1903.

CHAPTER 99.

AN ACT regulating public dance halls, and prescribing the penalty for violation thereof.

[H. 310. APPROVED MARCH 4, 1905.]

Dance or Concert Hall, Etc.—Liquors—Children—Penalty.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That any proprietor of any dance hall, concert hall, or place of entertainment where wines, or spirituous or malt liquors are sold or given away, or with which any place for the sale of wines or spirituous or malt liquor is directly or indirectly connected by any passageway or entrance, who shall allow, suffer or permit any male person under the age of sixteen years or any female person under the age of seventeen years to congregate at, in or about, or frequent or visit such dance hall, concert hall, or place of entertainment shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars, to which may be added imprisonment not to exceed six months.

CHAPTER 100.

AN ACT to amend section one (1) of an act entitled "An act entitled an act concerning the construction of free gravel, stone or other macadamized roads, and for the payment of costs thereof and their maintenance, and declaring an emergency," approved March 9, 1903, and declaring an emergency.

[H. 334. APPROVED MARCH 4, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section one of an act entitled an act entitled "An act concerning the construction of free gravel, stone or other macadamized roads, and for the payment of the cost thereof and their maintenance, and declaring an emergency," be amended to read as follows:

Highways—Free Gravel Road—Connecting Sections.

Section 1. That when the board of county commissioners of any county in the State of Indiana shall have caused to be constructed, or shall have in process of construction, pursuant to a petition and election therefor under an act of the general assembly of said state, approved March 3, 1893, and entitled "An act concerning the construction of free gravel, stone or other macadam-

ized roads, providing for the location, the manner of their construction, and providing for the payment of the same and their maintenance, and declaring an emergency," and the amendments thereto, or under an act of the general assembly of said state, approved March 11, 1901, any free gravel, stone or other macadamized roads in any township, or townships contiguous to each other in such county, including in such township or townships all towns and cities therein of less than thirty thousand inhabitants; and any terminal point or any other point or part of any such roads so constructed or in process of construction shall be within three miles of the boundary line of such township or townships, or of any constructed free gravel, stone or other macadamized road, or any street in said township or townships (including towns and cities of less than thirty thousand situate in any such township or townships as part of the township), but shall not reach such township or townships, boundary or such other free gravel, stone or other macadamized road or street; then in such case, the board of commissioners of any such county, upon the petition of fifty freehold voters, and in all townships that have less than one hundred freehold voters a majority of said voters, including therein towns and cities of less than thirty thousand inhabitants, and the giving of notice, as hereinafter required, shall at their next regular term or session after the giving of such notice, proceed to consider such petition, and they find the same to be sufficient and in compliance with the provisions of this act, they may proceed at once, as hereinafter provided for, to have any such free gravel, stone or other macadamized road constructed and completed, over and upon any then existing public highway, to the township line of the township wherein it is located, or to connect with any other completed free gravel, stone or other macadamized road or street in such township or townships, or any town or city of less than thirty thousand inhabitants forming a part of such township or townships.

Emergency.

SEC. 2. An emergency existing therefor, this act shall take effect and be in force from and after its passage.

Chapter 101.

AN ACT to amend section one of an act entitled "An act to provide for the better collection and distribution of state publications and defining certain duties of the board of commissioners of public printing, binding and stationery, and prescribing certain duties of the state librarian," approved March 3, 1899.

[H. 363. Approved March 4, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That section one of an act entitled "An act to provide for the better collection and distribution of state publications and defining certain duties of the board of commissioners of public printing, binding and stationery, and prescribing certain duties of the state librarian," approved March 3, 1899, be and the same is hereby amended to read as follows:

State Librarian—State Reports and Documents.

Section 1. That the board of commissioners of public printing, binding and stationery shall cause to have delivered to the state librarian two hundred copies of each and every report, document, bulletin or other publication published at the expense of the state, except session acts of the general assembly and supreme and appellate court reports.

Chapter 102.

AN ACT to permit county fairs, agricultural and horticultural societies operating under a state charter to issue bonds for improvements of grounds and defining purpose and limitations of issue, and repealing all laws in conflict with this act.

[H. 379. Approved March 4, 1905.

Preamble.

Whereas, The various county fairs and horticultural and agricultural societies, organized and operating throughout the State of Indiana and [are] of great mutual benefit to the promoting of the agricultural interests, also to the breeders of high grade live stock; and

Whereas, All said societies or associations are conducted for the benefit of the public and not for pecuniary benefit of any one or set of men; and

Whereas, Many of the parks or grounds used for such exhibits are in need of improvements and increased facilities for taking care of the exhibits and protecting the care and comfort of the patrons; therefore

Agricultural Societies or Fairs—Issue of Bonds.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all agricultural or horticultural societies or county fairs having a state charter, owning not less than fifty (50) acres of real estate in fee simple, may issue first mortgage bonds in a maximum amount of seventy-five (75) per cent. of the value of the real estate unimproved for the purpose of paying off present incumbrance or making permanent improvements on the association grounds.

Interest—Tax Exemption.

SEC. 2. The bonds so issued shall not bear to exceed four per cent. interest, payable annually, and shall not be listed or assessed, but shall be free from taxation in this state and shall not be issued for a longer period than the life of the charter of the association. However, the bonds may be sold at a less price than the par value, provided such action is endorsed by a full meeting of the board of directors.

Surplus—Retirement of Bonds.

SEC. 3. At any time there is a surplus in the association treasury, all such funds not needed for improvements on the grounds shall be used in retiring the bonds; said bonds to be retired in the order of their seniority, and a clause embodying this privilege to be inserted in all bonds.

Emergency.

SEC. 4. Whereas, an emergency is declared to exist for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

CHAPTER 103.

AN ACT concerning the disposition and custody of persons who become insane after conviction for crime, providing how such insanity shall be determined, and providing by whom the costs and expenses of such proceeding shall be paid.

[H. 388. APPROVED MARCH 4, 1905.]

Courts—Convicted Person Insane—Trial—Commitment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That when the defendant in a criminal cause appears for judgment, and the court, either from his own knowledge or upon the suggestion of any person, has reasonable ground for believing the defendant to be insane, the question of his insanity

shall be determined by a jury of twelve qualified jurors, to be summoned and impaneled as directed by the court. If the jury do not find him insane judgment shall be pronounced. If the jury find him insane the court shall enter an order on his record directing that the defendant be confined in a state insane hospital.

Sanity Recovered—Order of Court.

SEC. 2. Whenever the defendant shall become sane the superintendent of the insane hospital shall certify the fact to the proper court, who shall enter an order on his record, directing the sheriff to return the defendant, that judgment may be pronounced; or, the court may enter such order in the first instance, whenever he shall receive information of defendant's restoration to sanity.

Witnesses—Examination—Fees.

SEC. 3. In order that the defendant's sanity may fairly be determined, witnesses may be examined touching their knowledge concerning defendant's mental condition; the presence of such witnesses may be compelled by compulsory process, if necessary; the fees for such witnesses to be paid the same as in other criminal actions.

Sheriff—Fees.

SEC. 4. For taking the defendant to, and returning him from the insane hospital, the sheriff or other person acting in his stead, shall be allowed the same fees, to be paid out of the county treasury, as are now allowed for taking insane persons to the hospital. The traveling and other expenses incurred by the defendant shall be taxed as other costs are taxed against him in the action.

CHAPTER 104.

AN ACT authorizing boards of county commissioners and county councils to appropriate and pay money in aid of agricultural fairs.

[H. 405. APPROVED MARCH 4, 1905.]

County Business—Aid to Agricultural Fairs.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That the county councils and boards of county commissioners of all counties in the State of Indiana are hereby authorized and empowered to appropriate and pay to any agricultural fair or association, in which the people of such county are interested, a sum not exceeding one cent on the one hundred dollars valuation of the taxable property of such county to be paid out of the general county fund, to be used and expended only

for premiums on agricultural and horticultural products and live stock: *Provided*, The same shall not apply to any person, association or corporation conducting such fair or exhibition for gain, nor to street fairs or exhibitions, but only to regularly organized fair associations, but such fair or exhibition must be given only for the promotion of the interests of agriculture, horticulture and stock raising: *Provided further*, No part of such money shall be used or given for contests of speed.

Two or More Fairs—Division.

SEC. 2. In all counties where two or more such fairs or exhibitions are conducted as provided in section one of this act, the board of commissioners of such county may appropriate to each of such fairs or associations out of such moneys such sums as it may deem proper and equitable, provided the aggregate sum so given shall not exceed a sum equal to one cent on the one hundred dollars valuation of the taxable property of such county.

CHAPTER 105.

AN ACT to amend sections 1 and 4 of an act entitled "An act levying an annual state tax for the purpose of raising revenue for the general fund, benevolent and reformatory institution fund, the school revenue for tuition fund and state debt sinking fund of the state treasury; providing for the application of any unappropriated balance in the general fund to the payment of the principal of the public debt and for transferring from the benevolent institution fund to the general fund under conditions named, repealing all conflicting laws and declaring an emergency," approved March 11, 1895, repealing all conflicting laws, and declaring an emergency.

[H. 429. APPROVED MARCH 4, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That section one of an act entitled "An act levying an annual state tax for the purpose of raising revenue for the general fund, benevolent and reformatory institution fund, the school revenue for tuition fund and state debt sinking fund of the state treasury, providing for the application of any unappropriated balance in the general fund to the payment of the principal of the public debt and for transferring from the benevolent institution fund to the general fund under conditions named, repealing all conflicting laws and declaring an emergency," approved March 11, 1895, be and the same is hereby amended to read as follows, to wit:

Taxation—State General Fund—Assessments.

Section 1. That there shall be in the years 1905, 1906, and 1907 assessed and collected annually as other taxes are assessed and collected the sum of twelve cents upon each one hundred dollars worth of taxable property, and fifty cents on each taxable poll in the state, which money when collected shall be paid into the general fund of the state treasury; there shall be in the year 1908 and annually thereafter, assessed and collected as other taxes are assessed and collected the sum of nine cents upon each one hundred dollars worth of taxable property and fifty cents on each taxable poll in the state, which money when collected shall be paid into the general fund of the state treasury.

State Debt Sinking Fund—Assessment.

SEC. 2. That section 4 of the above entitled act be and the same is hereby amended to read as follows, to wit:

Section 4. There shall be in the years 1908 and 1909 assessed and collected annually as other taxes are assessed and collected, the sum of three cents on each one hundred dollars worth of taxable property in the state, which money when so collected shall be paid into the state treasury and shall be kept and known as the "state debt sinking fund," and the proceeds from such levy shall be appropriated exclusively for the payment of the principal of the public debt of the state, as the same may become payable: *Provided,* That if at any time there remain a balance in the general fund of the state treasury, not otherwise appropriated, then the governor, auditor and treasurer of state are hereby authorized to apply any such unappropriated balance in such general fund to the payment of any part of the debt of the state that is payable.

Repeal.

SEC. 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 4. An emergency existing for the immediate taking effect of this act, the same shall be in force from and after its passage.

Chapter 106.

AN ACT entitled "An act to authorize the governor of the State of Indiana to issue patents for certain Michigan road lands," in this state.

[H. 432. Approved March 4, 1905.]

Preamble.

Whereas, Certain lands in this state, which are designated as Michigan road lands, have been sold under the direction of the acts of the general assembly of the State of Indiana, and the purchase price of the same fully paid and patents for the same have never been issued.

Governor—Michigan Road Land Patents.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That the governor of this state be and is hereby authorized, empowered and directed in all cases where final payment has been made for any of said Michigan road lands and patents have not been issued to the purchaser thereof, upon the request of the owner of the whole or any part thereof, to issue a patent for such lands in the name of the original purchaser, and when so issued shall vest in the owner all the title and interest held by this state at the time of such final payment for the lands so purchased.

Chapter 107.

AN ACT regulating the labor of the inmates of the Indiana reformatory on state account, providing for the schooling and the training of the inmates, providing for trades schools, the utilization of the inmates' labor for state account and the disposition of all articles made in such trades schools or on state account, providing that state institutions and political divisions of the state shall purchase certain articles from the management of the reformatory, and providing the necessary appropriation as well as certain other matters relating thereto, and providing penalties therefor.

[S. 13. Approved March 4, 1905.]

Indiana Reformatory—Contract Labor.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That the contract system of labor for the inmates of the Indiana reformatory shall be abolished after July, 1906.

Common Schools—Trades Schools, Etc.

Sec. 2. It shall be the duty of the board of managers to provide for teaching the inmates in the common branches of an English education; also in such trades and handicrafts and to offer

such rewards as will enable them, upon their release, to more surely earn their own support and make self-reliant and self-supporting citizens. For this purpose said managers shall establish and maintain common schools, trades schools and military drill in said reformatory, and make all needful rules and regulations for the government of same, and do such other acts as will be necessary to accomplish such results.

Introduction of Trades Schools—Use of Products.

SEC. 3. In the employment, education and training of the inmates of the reformatory the board of managers shall have full power to establish and introduce such trades schools as said board may determine for the training of the inmates in the mechanical arts, and to provide for the manufacture of goods on state account, for the production of such articles as are used in the institutions of the state and in certain political divisions of the state, and in the production of such articles as may be found practicable: *Provided*, That said reformatory shall not produce any school books and desks used by pupils for use, or which shall be used in the common schools of the state, or print any other books or blanks except for the use of said reformatory.

Sale of Products—Who to Purchase.

SEC. 4. The state institutions, except where similar articles are made therein, and political divisions of the state using supplies such as are produced in said reformatory shall be required to purchase the same at a price fixed by a board hereafter provided for: *Provided*, That such political divisions shall not be compelled to pay a greater price for such supplies than the same of like quality could be purchased for elsewhere: *And, provided further*, That the board of managers of said reformatory are and shall be authorized to sell any surplus of articles so produced upon the market.

Price of Products—How Fixed.

SEC. 5. The governor of the state, the auditor of state, and president of board of managers of said reformatory shall constitute a board, whose duty it shall be to fix and regulate the prices for which all articles manufactured in said reformatory shall be sold to the state institutions and political divisions of the state; and shall also approve of the quality and style of the articles or supplies that are to be furnished to the said state institutions and political divisions of the state: *Provided*, That the prices so fixed shall in no case exceed the market price for such supplies.

Catalogue—Requisitions.

SEC. 6. It shall be the duty of the board of managers from time to time, after the taking effect of this act, to issue a printed

descriptive catalogue to the various state institutions and political divisions of the state, showing in detail and by cuts such articles as the management is able to manufacture; and when such state institutions or political divisions of the State of Indiana are in need of such articles as described in said catalogue the boards of control, boards of trustees, or boards of managers and the heads of such institutions, boards of county commissioners, township trustees, superintendent of poor asylums and county sheriffs shall make requisition on the board of managers of said reformatory for such articles as are needed, giving the board of managers a reasonable time to manufacture the articles so required, and shall not purchase any such articles elsewhere unless the same can not be furnished by such reformatory. Said boards and above named officers shall not contract for or pay any bill for any such articles as are made at said reformatory which are shown in the catalogue to be issued as aforesaid, until a written statement has been given them that such institution can not furnish such articles.

Putting Act Into Effect—Fund.

SEC. 7. It is further provided, that for the money to carry into effect the provisions of this act the earnings from the contracts and trades schools of said reformatory for the month of January, 1905, and for each month thereafter, shall be turned over to the state treasurer, there to remain to the credit of the reformatory, to be checked against by the board of managers as other appropriations are disbursed in establishing such trades schools and other labor for the inmates of said reformatory as in their judgment is necessary, and at the end of each fiscal year there shall be made to the governor of the state a detailed report showing the amount of money received and paid over to the treasurer of the state to the credit of said fund from said contracts and said trades schools, and the amount on hand; also showing the amount that has been disbursed and the amount of manufactured articles in stock and raw material on hand: *Provided further,* If there remains to the credit of said reformatory in the hands of the state treasurer at the end of any fiscal year after this law is in effect more than $50,000.00 from said receipts, then any surplus over $50,000.00 shall be transferred to the general fund of the state. The above $50,000.00 or any part of same so remaining in the hands of the state treasurer shall be used by the board of managers of said reformatory as a working capital for the succeeding year for the purpose of purchasing raw materials and such other articles or machinery as are needed in the manufacture of articles to be sold to the state institutions or political divisions of the state, the raw material and machinery to be purchased as required on bids after due notice has been given to bidders as is now given in the purchase of other supplies for said institution.

Penalty.

SEC. 8. Any member of a county council, a county commissioner, township trustee, or any member of a board or other official of a state institution, or any other person who wilfully violates any of the provisions of this act in sections 1, 2, 3, 4, 5, 6, 7, 8 and 9, shall be guilty of a misdemeanor, and upon conviction therefor shall be fined not less than $100.00 nor more than $1,000.00, and in addition may be removed from office.

Prosecutor—Duty.

SEC. 9. It shall be the duty of the several prosecuting attorneys of this state in their respective counties to diligently prosecute, by indictment or information, any and all violators of this act.

Repeal.

SEC. 10. All laws and parts of laws which conflict with the provisions of this act are hereby repealed.

CHAPTER 108.

AN ACT to amend section twenty-two (22) of an act entitled "An act for the incorporation of life insurance companies on either the stock or the mutual plan, defining their powers and prescribing their duties and the duties of certain officers in connection therewith, providing penalties for the violation of this act, and declaring an emergency," approved February 10, 1899, and being chapter twenty-eight (28) of the published laws passed by the sixty-first regular session of the general assembly of the State of Indiana, and declaring an emergency.

[S. 50. APPROVED MARCH 4, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section twenty-two of the above entitled act be and the same is hereby amended to read as follows:

Insurance—Stock and Mutual—Investments.

Section 22. No company organized under the provisions of this act shall invest its funds in any other manner than as follows: In bonds of the United States, in bonds of this state or of any other state, country or province in which said company is transacting an insurance business, if at or above par; in legal tender money of the United States; in bonds and mortgages on unincumbered real estate within this state, or in any other state or country in which said company is transacting an insurance business, worth at least double the amount loaned thereon, and the

value of such real estate shall be determined by a valuation made under oath by two freeholders of the county where the real estate is located (if buildings are considered a part of the value of such real estate they must be insured for the benefit of the mortgagee); in bonds or other evidence of indebtedness, bearing interest, of any county, incorporated city, town, township or school district within this state, or in any other state or country in which said company is transacting an insurance business, where such bonds or other evidences of indebtedness are issued by authority of law, and upon which interest has never been defaulted; in loans upon the pledge of stock, bonds or mortgages of par value, if the current value of such stock, bonds or mortgages is at least twenty-five per cent. more than the amount loaned thereon, and in loans upon its own policies: *Provided*, That the amount so loaned shall not exceed the reserve against said policy at the time such loan is made: *Provided*, That in the annual certificate furnished by the auditor of state to any such company he shall name all deposits and the amount thereof made by such company with any other state or country, which deposits must be of the character of securities herein provided for.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 109.

AN ACT to regulate the business of banking by individuals, partnerships and unincorporated persons.

[S. 81. APPROVED MARCH 4, 1905.]

Private Banking.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That every partnership, firm or individual transacting a banking business within this state or using the word bank, banker or banking in connection with his or its business shall be subject to the provisions of this act.

Assets.

SEC. 2. That from and after July 1st, 1905, it shall be unlawful for any partnership, firm or individual to transact a banking business in this state unless such partnership, firm or individual has property of the cash value of at least ten thousand dollars. Such property shall be in money, bank furniture and fixtures or real estate for the conduct of the business of such bank, all to

be set apart and kept good and unimpaired for the security of the creditors of any such bank, and provided that the real estate, bank furniture and fixtures shall not constitute more than one-third in amount and value of the entire capital of such bank.

Statement to Auditor of State.

SEC. 3. Every partnership, firm or individual now transacting or hereafter desiring to transact a banking business in this state, shall, under oath, file with the auditor of state, a full, complete detailed statement of

First. The name of the bank or proposed bank.

Second. A copy of the articles of copartnership and agreement if a copartnership under which the business of the bank is being or is to be conducted, which shall be executed and acknowledged by all the parties interested therein, and at least one of whom shall be at all times a resident of the State of Indiana. If a banking business is being or is to be transacted or carried on by an individual, such individual shall at all times, while in such banking business be a resident of the State of Indiana and the statement herein required shall so show.

Third. The county and city or town in which the bank is to be located and the business carried on.

Fourth. The amount of capital paid into the business, and to be kept and maintained at all times in the business.

Fifth. A statement that the responsibility and net worth of the individual members of such firm, partnership or individual is equal to an amount at least double the amount of capital paid into such bank as herein provided.

Sixth. If not disclosed in the partnership agreement, then the names of the officers, agents or employes in the active charge of and management of the business of the bank. Every partnership, firm or individual now doing a banking business in this state shall on or before July 1, 1905, file with the auditor of state a detailed statement as provided herein.

Oath as to Capital Paid In—Certificate.

SEC. 4. Whenever, after the filing of the statement provided in section 3 of this act and the payment to the auditor of state, for the state, the sum of five dollars, and the filing with the auditor of state, the oath of some member of the partnership, firm or individual, that the capital has been paid in as provided for and in compliance with section 3 of this act, then the state auditor shall, without unnecessary delay, issue to such partnership, firm or individual, a certificate or charter, authorizing such partnership, firm or individual to transact a banking business.

Reports to Auditor—Publication.

SEC. 5. Every bank, partnership, firm or individual transacting a banking business under the provisions of this act shall make to the auditor of state not less than two reports each year, according to the form which may be described [prescribed] by the auditor of state, which report shall be verified by some member of the firm, partnership or the individual owner of such bank, and which said report shall be of the same general form and character as is required by the auditor of state of corporations organized and doing business under the general banking laws of the state, a copy of which said report shall be published in some newspaper printed and published in the town or city where such bank is located, and if no paper is published in such town or city then in some newspaper of general circulation printed and published in the county seat of the county where such bank is located.

Posted List of Owners—Changes—Notice to Auditor.

SEC. 6. There shall be posted in the room of every bank, doing business under the provisions of this act, and in plain view of its customers, a printed list of all the owners of, and parties interested in, such bank, and the statement that this is a private bank. Should the interest of any member of such partnership or firm, or of an individual doing a banking business under the provisions of this act, change either by death, devise, sale or otherwise, then and in that case the auditor of state shall be notified of such change and the notice printed in the room of any such bank as herein provided shall be changed accordingly.

Penalties.

SEC. 7. Any person, firm, or copartnership violating any of the provisions of this act shall be fined in any sum not exceeding one thousand dollars, to which may be added for the second offense imprisonment in the state prison for any term not exceeding two years.

Property in Trust—Instrument Filed with Auditor.

SEC. 8. Should any bank organized under the provisions of this act, or any owner or owners thereof, hold any property in trust for another, the fact of such trust, the general nature and character thereof, the acceptance of the same and the amount so held shall be set forth in an instrument to be executed by the trustee and acknowledged by him before a notary public. Within forty-five days after the execution of such an instrument, it shall be filed with the auditor of state with a record fee of one dollar for the state.

Depositors' Lien.

SEC. 9. The depositors in any such bank shall have a first lien on the assets of such bank, in case it is wound up, to the amount of their several deposits. And for any balance remaining unpaid, such depositors shall share in the general assets of the owner or owners, alike with general creditors.

Rights of Bank—Court Process.

SEC. 10. Any bank organized and doing business under the provisions of this act shall have the right to sue and be sued under the name under which such bank is authorized to transact its business. Service of summons or other process of court upon the officer or agent in charge of the business of such bank shall be good and sufficient service to give the court jurisdiction and any judgment obtained against such bank shall be valid and binding against all the persons interested therein.

CHAPTER 110.

AN ACT to amend section 1 of an act entitled "An act exempting from taxation the property of cemeteries organized under the laws of this state upon a basis which prevents the corporation from deriving therefrom pecuniary benefits or profits," approved February 20, 1895.

[S. 91. APPROVED MARCH 4, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That section 1 of the above entitled act be amended to read as follows:

Cemeteries—When Exempt from Taxation.

Section 1. That in all cases where cemeteries incorporated under the laws of this state upon such a basis that the corporation can not derive any pecuniary benefit or profit therefrom; and in all cases where a cemetery association shall provide for setting aside a certain definite portion of the proceeds derived from the sale of lots as a perpetual care fund, the income of which shall be used as a perpetual care and maintenance fund, all the property and assets belonging to such corporation used exclusively for cemetery purposes shall be exempt from taxation for any purpose: *And provided*, That it shall be lawful for any person to provide a fund, either by gift, bequest or devise, which may be a perpetual fund, the income from which shall be used for the care and maintenance of any cemetery lot expressly described in the instrument creating the fund, and the fund so created shall be

exempt from taxation for any purpose; and a trust may be created for the care, custody and control of such fund: *Provided*, That the real estate of any such corporation lying within any incorporated city or town shall not be exempt from liability for street improvements and sewer assessments, as now or may hereafter be provided by law.

CHAPTER 111.

AN ACT concerning the maintenance, repair and protection of levees, and providing penalties for violation thereof, and declaring an emergency.

[S. 95. APPROVED MARCH 4, 1905.]

Levee—Maintenance—Repair—Protection—Condemnation.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That any person or persons, officer or officers, corporation or association authorized by law to maintain, protect, or repair any levee now or hereafter constructed under any law of the State of Indiana shall have the right to purchase for the use of any such levee whatever ground may be necessary to protect, maintain or repair such levee; and whenever, in the opinion of any such person or persons, officer or officers, corporation or association, it shall be considered necessary to purchase real estate for such use or purpose and they are unable to agree with the owner thereof they may proceed to acquire such real estate by condemnation in the same manner and with the same effect as provided by law for the condemnation of real estate for railroad purposes.

Unlawful Use.

SEC. 2. It shall be unlawful for any person to ride or drive upon or over any levee now or hereafter constructed under any law of the State of Indiana, except for the purpose of passing over the same at public or private crossings, or upon such parts as may be or becomes a part of a public highway; or for the purpose of inspection or repair.

Penalty.

SEC. 3. Any person violating any of the provisions of sections 2 or 3 of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than five dollars nor more than one hundred dollars.

Emergency.

SEC. 4. Whereas, an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

Chapter 112.

AN ACT to amend sections 1, 2, 5, 7, 8, 9 and 10 of an act entitled "An act to establish a state board of embalmers; to provide a system of examination, registration and licensing the embalmers; to provide for the better protection of life and health; to prevent the spread of infectious and contagious diseases in the state; to legalize licenses issued to embalmers by the state board of health previous to the enactment of this statute, and to impose penalties for the violation of its provisions, and declaring an emergency." (H. 456, approved March 12, 1901.)

[S. 118. Approved March 4, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That section 1 of an act to establish a state board of embalmers; to provide a system of examination, registration and licensing of embalmers; to provide for the better protection of life and health; to prevent the spread of infectious and contagious diseases in the state; to legalize licenses issued to embalmers by the state board of health previous to the enactment of this statute, and to impose penalties for the violation of its provisions, and declaring an emergency, be amended to read as follows:

State Board of Embalmers—Appointments by Governor.

The governor shall, as soon as practicable after the passage of this act, appoint five persons, who shall be practical and practicing embalmers. One of the persons so appointed shall hold office for one year, one for two years, one for three years, two for four years, unless sooner removed. Appointments to fill vacancies caused by death, resignation or removal before expiration of terms shall be made for the residue of such terms by the governor, and all appointments to fill vacancies caused by the expiration of such terms shall be made by the same manner and shall be for a period of four years.

Oaths—Officers—Salary.

Sec. 2. That section 2 of said act be amended to read as follows:

The members of such board before entering on their duties shall respectively take and subscribe to the oath required by other state officers, which shall be filed in the office of the secretary of state, who is hereby authorized to administer the same. They shall have power to select out of their own number a president, secretary and treasurer, and adopt such regulations for the transaction of business of the board and management of its affairs as they may deem expedient. The members of said board shall receive no salary as such except the secretary, who shall receive

three hundred dollars ($300.00) per year, but the actual traveling and necessary expenses of the board and five dollars ($5.00) per diem for time actually spent by its members shall be paid out of the receipts as hereinafter directed.

Examinations—License—Fees—Renewal.

SEC. 3. That section 5 of said act be amended to read as follows:

Every person who wishes to practice the profession of embalming shall appear before the state board of embalmers, and upon the payment of a fee not to exceed five dollars ($5.00), to cover expenses of examination, be examined in their knowledge of embalming, sanitation, disinfecting the body of deceased persons and the apartment, clothing, excreta and anything likely to be infected in case of death from infectious or contagious disease, in accordance with the rules and regulations of the state board of health. Such examination shall be in writing and by actual demonstration on cadaver. All examination papers shall be kept on record by said state board of embalmers, and if the applicant be of good moral character, and shall have had one year's actual training in practical embalming, either in a college prescribing a special course in the science of embalming, or as an assistant to a regularly licensed and practicing embalmer, and pass such examination, then said board must issue to said applicant a license to practice the profession of embalming for one year. If the applicant desires a renewal of the license the said board shall grant it except for cause, and the annual fee for renewal of license shall not exceed the sum of one dollar ($1.00).

Penalties.

SEC. 4. That section 7 of said act be amended to read as follows:

Any person who shall practice, or hold himself or herself out as practicing the profession of an embalmer of human dead bodies without having complied with the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof before any court of competent jurisdiction shall be sentenced to pay a fine of not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00) for each and every offense; and it shall be a part of the duties of said board to render any possible assistance in the prosecution of violators of this act, or any part of the same: *Provided,* That nothing in this act contained shall be construed to apply to persons engaged as layers-out or shrouders of the dead, or to the employes of any cemetery whose duty or business extends no further, nor to officials or employes of any state institution.

Fees, Use of—Bond of Treasurer—Report.

SEC. 5. That section 8 of said act be amended to read as follows:

All fees collected under the provisions of this act shall be paid to the treasurer of the state board of embalmers, to be used for the purpose of defraying its necessary expenses; and the treasurer of the state board shall give bond in the sum of five hundred dollars ($500.00) to the approval of said board for the honest and faithful discharge of his duties. It shall be the duty of said state board, on or before the first Monday in November of each and every year, to make a report in writing to the governor of this state containing a detailed statement of the nature of the receipts and the manner of expenditures; and any balance of money remaining at the end of the year, after payment of the necessary expenses, including the salary of the secretary, the per diem, traveling and other necessary expenses of the board, incurred in the discharge of their duties, shall be held as an emergency fund to meet extraordinary expenses, as herein indicated.

Licenses Issued by Health Board.

SEC. 6. That section 9 of this [said] act be amended to read as follows:

The state board of embalmers may recognize licenses issued previous to the passage of this act by the Indiana state board of health; and all licenses issued to embalmers by other state boards of embalmers and state health authorities, and upon presentation of such licenses may issue the regular license to holders of such licenses and certificates of competency.

Emergency.

SEC. 7. That section 10 of said act be amended to read as follows:

An emergency is hereby declared for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.

CHAPTER 113.

AN ACT concerning elections.

[S. 131. APPROVED MARCH 4, 1905.]

Elections—County or City Commissioners—Canvassing Boards.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That in each county in the state the county board of election commissioners shall constitute a county board of canvass-

ers, who shall canvass and estimate the certificates, poll lists and tally papers returned by each inspector of elections in the county, for which purpose the board shall assemble in the circuit court room in the court house, at six o'clock p. m., upon the day of each election; and that in each city in the state, the city board of election commissioners shall constitute a city board of canvassers, who shall canvass and estimate the certificates, poll lists, and tally papers returned by each inspector of election at all city elections, for which purpose the board shall assemble in the council chamber of said city at six (6) o'clock p. m. upon the day of said election.

Chairman—Clerk.

SEC. 2. The members of such county board shall select one of their number as chairman, and the clerk of the circuit court shall act as clerk of the county board; and the members of such city board shall select one of their number as chairman, and the clerk of such city shall act as clerk of the said board.

Clerical Assistance.

SEC. 3. Each of such board of canvassers shall employ such clerical assistance as in its judgment may be deemed necessary for the proper canvassing and tabulating of the vote: *Provided*, That not more than one-half of the clerks employed upon such work of canvassing shall be members of the same political party; and such clerks shall be paid for their services a reasonable compensation to be fixed by said board of canvassers, not, however, to exceed the sum of fifty cents per hour to each clerk for the time actually employed upon such canvass, and the order of said county board upon the county treasurer for clerical services rendered said county board shall be sufficient authority to the county treasurer to pay to the holder of the same the amount therein fixed: *Provided*, There is money in the treasury for that purpose; if there be no funds to pay such order when presented the treasurer shall indorse thereon "Not paid for want of funds," and the day of such presentment over his signature, which shall entitle such order to draw thenceforth legal interest; and the order of such city board upon the city treasurer for clerical services rendered such city board shall be sufficient authority for the city treasurer to pay to the holder of the same the amount therein fixed: *Provided*, There is money in the city treasury for that purpose, and if there be no funds to pay such order or orders when presented the treasurer shall endorse thereon "Not paid for want of funds," and the date of such presentment over his signature, which shall entitle such order to draw henceforth legal interest. The members of any such board shall receive for their services as board of canvassers such amount as may be fixed by the board of commissioners or common council as the case may be.

Board's Duties.

SEC. 4. Such county or city board when organized shall carefully compare and examine the papers intrusted to it, and aggregate and tabulate from them the vote of the county, or the vote of the city, as the case may be, a statement of which shall be drawn up by the clerk which shall contain the names of the persons voted for, the office, the number of votes given in each precinct, ward or township in a county election, and in each ward and precinct in a city election to each person; the number of votes given to each in the county or city and also the aggregate number of votes given, which statement shall be signed by each member of such board, and canvass sheets together with such certificates, poll books and tally papers shall be delivered to the clerk, and by him filed in his office; and the same shall be preserved by him open to the inspection of any legal voter.

Certificate.

SEC. 5. Such county board shall declare the persons having the highest number of votes given for any office to be filled by the voters of a single county duly elected to such office, and certify the same in the statement above required; and such city board shall declare the persons having the highest number of votes given for any office to be filled by the voters at a city election, duly elected to such office, and certify the same in the statement above required.

Tie Vote.

SEC. 6. If two or more persons shall have the highest and equal number of votes for a single office to be filled by the voters of such county or city, such county or city board shall declare that no person is elected to fill such office, and shall certify the same in the statement above provided and when filed the clerk shall certify the fact to the tribunal whose duty it is to supply vacancies in such office, or to issue writ of election to fill the same as the case may require.

Defective Papers—Duty of Board.

SEC. 7. No tally papers, poll book or certificates returned from any election by board of judges thereof shall be rejected for want of form, or for lack of being strictly in accordance with the directions contained in the election laws if the same can be satisfactorily understood, and such board of canvassers shall in no case reject the returns from any precinct if the same be certified by the board of election of that precinct as required by law, and returned by the inspector or one of the judges of said board.

Evidence—When Heard—Witness in Contempt.

SEC. 8. County or city boards of election commissioners and county or city boards of canvassers in matters concerning the sufficiency or validity of any nominating certificate or petition, may examine on oath any person touching any material matter connected with or bearing on the proper discharge of their duties. Any member of the board may administer such oath. Either of said boards is given full power to send for persons and papers, and compel the witnesses to answer under oath touching any questions which may properly come before said board. The sheriff of the county in county elections and city marshal or superintendent or chief of police in city elections shall serve all process, and obey all orders of such board, and shall during the canvass provide a deputy who shall remain in attendance upon such board of canvassers, and shall be paid by the county or city for such services at the rate of two dollars for every eight hours of such attendance. In case of the refusal of any person subpoenaed to attend or testify such fact shall be reported forthwith by such board of election commissioners or said board of canvassers, to any circuit or other court of general jurisdiction of the county, or to a judge thereof, and such court or judge shall order such witnesses to attend and testify, and on failure or refusal to obey such order such witnesses shall be dealt with as for contempt.

Disputes—Decision by Circuit Judge.

SEC. 9. In case of a disagreement between the members of the county or city board of canvassers as to how the vote of any precinct shall be counted the matter in dispute shall be forthwith reported by said board to the judge of the circuit court in a brief written statement setting forth the grounds of disagreement together with all papers concerning the matter, and such judge shall summarily determine said dispute, and direct how such vote shall be counted, and such determination shall be final as regards the action of said board of canvassers.

Inspector—County and City Clerk—Duties.

SEC. 10. It shall be the duty of each inspector of elections as soon as the certificates required by law to be signed by the precinct election boards have been signed, to deliver the same with one of the lists of voters and one of the tally papers containing the vote of the precinct for all state, district and county officers voted for and with the bags required by law to be returned by said inspector to the clerk of the circuit court at the court house for the use of the board of canvassers, and in city elections to the city clerk, and that there may be no delay in the canvassing of the vote of any county or city it is declared to be the duty of the clerk to keep the clerk's

office open all night upon the night of any election at which county or city officers are voted for.

Township Papers.

SEC. 11. The tally papers for township elections shall be kept separate and apart from those upon which are recorded the votes cast for candidates for state, district and county offices, and the vote for township offices shall be canvassed as heretofore provided by law. *Provided, however,* That in all townships having more than ten (10) voting precincts the vote thereof for township officers shall be canvassed by the county board of canvassers as herein provided for all county elections.

Petition for Nomination.

SEC. 12. No name upon any petition for nomination shall be considered by the city or county board of election commissioners unless the same be signed by the petitioner in person or by his mark duly attested, and no petition for nomination shall be effectual to authorize the name petitioned for to appear upon the official ballot unless the signatures of such petition to the number required by law shall be duly acknowledged before some officer authorized to take acknowledgements.

Repeal.

SEC. 13. All laws in conflict herewith are hereby repealed.

CHAPTER 114.

AN ACT to amend section 2 of an act entitled "An act providing for the discharge of prisoners from the Indiana reformatory and the Indiana state prison, making an appropriation to carry the same into effect, repealing all laws in conflict therewith and declaring an emergency," approved February 7, 1899, and declaring an emergency.

[S. 132. APPROVED MARCH 4, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 2 of the above entitled act shall be amended to read as follows:

Indiana State Prison—Paroled Prisoners.

Section 2. It shall be the duty of the warden of the prison to furnish all paroled prisoners the clothing and transportation provided for in section 1 of this act and five dollars ($5.00) in money: *Provided, however,* That when any such paroled prisoner

receives his final discharge while he is away from such Indiana state prison, the provisions of this act shall not apply to such prisoner at the time of final discharge.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 115.

AN ACT in regard to the state board of medical registration and examination and concerning eligibility to examination before such board.

[S. 136. APPROVED MARCH 4, 1905.]

State Board Medical Registration—Additional Member.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That within sixty days after this law goes into effect, it shall be the duty of the governor to appoint an additional member of the state board of medical registration and examination, which board shall thereafter consist of six members, each of whom shall serve as heretofore for a term of office of four years, and until his successor shall have been appointed and qualified. The additional member so appointed shall be a reputable practicing physician and a graduate of a reputable school or college of the system by which he practices, and shall belong to some school or system of practice other than those which are now represented upon said board, and his successor shall in the future always be of some school different from that of the remaining members of the board: *Provided,* That any osteopathist now practicing in and a resident of the State of Indiana and holding a diploma from a reputable college of osteopathy, as determined by the state board of medical registration and examination, shall be eligible to an examination on proper application to the said board, and should he pass this examination, that he shall be granted a certificate for a license forthwith to practice osteopathy in the State of Indiana.

Chapter 116.

AN ACT authorizing any city having a population of not less than three thousand three hundred nor more than three thousand four hundred and five, which has heretofore contracted, or may hereafter contract, with any person, firm or corporation for supplying said city with pure water or for the lighting of any of the streets or public places of such city with electric lights, or where any such city shall hereafter purchase, or has heretofore purchased, any waterworks system or electric light plant, or both, located within such city and desires to use public fire hydrants or electric lights, or both, to levy and collect an annual specific tax of not more than eighty cents on each one hundred dollars' worth of taxable property in said city with which to pay said contract price, or to pay the cost of maintaining public fire hydrants for fire protection and electricity for street lights in such city, and declaring an emergency.

[S. 139. Approved March 4, 1905.]

Cities of 3,300 to 3,405—Public Utilities.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That in all cases where the common council of any city of this state having a population of not less than three thousand three hundred, nor more than three thousand four hundred and five, by the last preceding United States census, shall hereafter contract, or has heretofore contracted, with any person, firm or corporation for supplying said city with pure water for fire protection or other purposes, or shall hereafter contract, or has heretofore contracted, with any person, firm or corporation for the lighting of any streets or public places of said city with electric lights, or where any city shall hereafter purchase or has heretofore purchased any waterworks system or electric light plant, or both, located within said city, and desire to use public hydrants for fire protection or electric lights for lighting the streets and public places within said city, then and in either of such cases, such common council is hereby authorized to levy and collect an annual specific tax for paying said contract price for said water or electric lights so furnished, or to pay the cost of furnishing said water for fire protection and electric lights for lighting the streets and public places, if furnished by said city, not exceeding eighty cents on the hundred dollars of taxable property within such city to be levied and collected as other corporation taxes are now levied and collected.

Emergency.

Sec. 2. Whereas, an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

Chapter 117.

AN ACT fixing the times of holding court in the fifty-seventh judicial circuit, composed of the counties of Dubois and Pike, and repealing all laws in conflict therewith and declaring an emergency.

[S. 146. Approved March 4, 1905.]

Fifty-seventh Judicial Circuit—Terms.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That the terms of court in the fifty-seventh judicial circuit, composed of the counties of Dubois and Pike, shall be held as follows, to wit: In the county of Dubois there shall be four terms of court in each year, commencing on the first Monday of January, the fourth Monday of March, the first Monday of June, and the first Monday of October, of each year, and continuing four weeks each term, if the business thereof shall require it; and in the county of Pike there shall be four terms of court, in each year, commencing on the first Monday of February, the fourth Monday of April, the first Monday of July, and the second Monday of November, of each year, and continue five weeks each term, except the July term, which shall continue four weeks, if the business thereof shall require it.

Repeal.

Sec. 2. That all laws and parts of laws in conflict herewith are hereby repealed.

Emergency.

Sec. 3. That whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.

Chapter 118.

AN ACT concerning legal holidays, the maturity of negotiable instruments, creating a Saturday half holiday for banking institutions in certain cities, repealing all laws in conflict herewith, and declaring an emergency.

[S. 150. Approved March 4, 1905.]

Holidays—Commercial Paper.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That the following days, to wit: The first day of the week, commonly called Sunday, the first day of January, commonly called New Year's day, the fourth day of July, the twenty-

fifth day of December, commonly called Christmas day; any day appointed or recommended by the president of the United States or the governor of the State of Indiana as a day of public fasting or thanksgiving; the twenty-second day of February, commonly called Washington's birthday; the thirtieth day of May, commonly called Memorial day; the first Monday of September, commonly called Labor day, and the day of any general, national or state election, shall be legal holidays within the State of Indiana. And when any of said holidays (other than Sunday) comes on Sunday, the Monday next succeeding shall be the legal holiday.

Saturday Half-Holiday—Cities of 35,000 or More.

SEC. 2. It shall be lawful for banks, trust companies and safe deposit institutions in all cities in this state, which have or hereafter may have a population of more than thirty-five thousand inhabitants, according to the last preceding United States census, to close their doors for business at twelve (12) o'clock noon on each and every Saturday in the year, and every Saturday in the year after [twelve] (12) o'clock noon shall, in addition to the legal holidays mentioned in section one (1) of this act, be a legal half holiday for such banks, trust companies and safe deposit institutions and the business thereof.

Negotiable Instruments—When Payable—Grace.

SEC. 3. All bills of exchange, bank checks, promissory notes and other negotiable instruments shall be payable at the time fixed therein, without grace. When the day of maturity falls upon Sunday, or a legal holiday, the instrument shall be payable on the next succeeding business day. Negotiable instruments falling due on Saturday shall be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday when that entire day is not a holiday.

Repeal.

SEC. 4. All laws and parts of laws in conflict herewith are hereby repealed.

Emergency.

SEC. 5. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect thereafter its passage.

CHAPTER 119.

AN ACT fixing the time for holding court in the Thirty-second Judicial Circuit of the State of Indiana, regulating certain matters connected therewith and repealing all laws in conflict therewith and declaring an emergency.

[S. 173. APPROVED MARCH 4, 1905.]

Thirty-second Judicial Circuit—Terms.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the terms of the circuit court in the thirty-second judicial circuit of the State of Indiana, shall begin on the fourth Monday of September; the first Monday of December; the fourth Monday of February, and the second Monday of May of each year, each term to continue as long as the business of the court shall require.

Writs Returnable.

SEC. 2. All process returnable to the next term of said court as heretofore provided by law, is hereby made returnable to the next term of said court as fixed by this act, and all orders of the court, recognizances, processes and publications having reference to the next term of the said court, shall be held and taken as having reference to the terms as fixed by this act. All processes, summons, orders, publications, recognizances, writs and subpoenas returnable at or having reference to any day of any subsequent term of said court as now fixed by law shall be held to be returnable on and refer [to] the same calendar day without reference to the judicial day upon which the same shall be returnable or to which it shall refer. And all persons shall take notice of the time of holding court as herein provided.

Continuance of Session.

SEC. 3. If the said circuit court shall be in session when this act takes effect it shall continue such session until the time fixed for the next term thereof by the first section of this act.

Repeal.

SEC. 4. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

Emergency.

SEC. 5. It is hereby declared that an emergency exists for the immediate taking effect of this act and the same shall be in force from and after its passage.

CHAPTER 120.

AN ACT authorizing judges of circuit courts in all counties wherein may be organized a circuit and superior court to transfer cases to such superior court for cause shown.

[S. 185. APPROVED MARCH 4, 1905.]

Courts—Circuit and Superior—Transfer of Cases.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in all counties wherein may be organized circuit and superior courts, the judge of the circuit court may, upon his own motion, transfer any action filed and docketed in such circuit court to such superior court to be redocketed and disposed of as if originally filed with said superior court in any of the following instances: When any reason for change of venue from the judge of such circuit court is shown to exist as now or may hereafter be provided by law. Whenever more cases are filed in said circuit court during any term of said court than can be disposed of with expedition. In all other cases where, in the opinion of said circuit court, an early disposition of said case is required.

Repeal.

SEC. 2. That all laws and parts of laws in conflict with the provisions of this act are now hereby repealed.

CHAPTER 121.

AN ACT authorizing the reduction of the capital stock of loan and trust and safe deposit companies, legalizing reductions in the capital stock of such companies heretofore made and repealing all laws in conflict therewith and declaring an emergency.

[S. 225. APPROVED MARCH 4, 1905.]

Corporations—Trust Companies—Reduction of Capital.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the capital stock of any loan and trust and safe deposit company may be decreased at any time provided the board of directors shall pass a resolution declaring that such decrease is advisable and calling a meeting of the stockholders to take action thereon; the meeting shall be held upon such notice as the by-laws provide and in the absence of any such provision upon ten days' notice given personally or by mail, and provided further that no reduction of the capital stock of any such company shall be made until the auditor of state has been notified

before the call for the meeting of stockholders to consider the proposed reduction. When so notified he shall cause an examination to be made immediately of the books, property effects and liabilities of such corporation and may also examine its officers and employes under oath. From the result of such examination he shall determine the value, in his judgment, of such property and effects above the debts and liabilities for this purpose, not considering capital stock as a liability, and certify the same in writing, together with his consent or refusal to consent to such reduction; and the amount so certified shall be presented to and read to the stockholders present at such meeting. It shall require the vote of three-fourth of the stockholders to authorize such reduction. No reduction will be allowed which will reduce the capital stock below the amount certified and consented to by the auditor of state, neither shall the capital stock of any such corporation whose office is located in a city of over fifty thousand (50,000) inhabitants be reduced at any time below one hundred thousand ($100,000) dollars, nor that of any such corporation whose office is located in a city of between twenty-five thousand (25,000) and fifty thousand (50,000) inhabitants be below fifty thousand ($50,000) dollars, nor that of any such corporation whose office is located in a city of less than twenty-five thousand (25,000) be below twenty-five thousand ($25,000) dollars.

Legalizing Clause.

SEC. 2. The reduction of its capital stock heretofore made by any loan and trust and safe deposit company is hereby fully legalized, provided such reduction was approved or authorized at a regular annual meeting of the corporation where 75 per cent. of the stock of the corporation was represented and where such reduction was approved or authorized by the unanimous vote of all the stock represented, and provided further that the auditor of state after an examination of the affairs of such corporation as provided in section 1 herein shall have consented to such reduction, and provided also that a notice of such reduction of capital stock shall be published for three successive weeks in a daily or weekly newspaper, published in the city or town where such loan and trust and safe deposit company is located, and certificate showing that the capital stock has been reduced and acknowledged by a majority of the board of directors before some officer authorized to take acknowledgments of deeds, shall be filed in the office of the secretary of state and a duplicate thereof filed and recorded in the miscellaneous record in the recorder's office of the county where the principal office of such corporation in this state is located.

Repeal.

SEC. 3. All laws and parts of laws in conflict with the provisions of this act shall be and are hereby repealed.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force and effect from and after its passage.

CHAPTER 122.

AN ACT providing for the election in behalf of widows who are insane and whose husbands died testate whether to take under the provisions made by law for widows in the estate of their deceased husbands or to take under the wills of such deceased husbands, and declaring an emergency.

[S. 289. APPROVED MARCH 4, 1905.]

Widow—Election as to Devise—Insane—Guardian.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That where lands and personal property, or either, be devised or bequeathed, to a woman, or a pecuniary or other provision be made for her by the will of her late husband, in lieu of her right to lands and personal property, or either, of her husband, and such woman shall have been found to be insane and under guardianship, then the guardian of such insane woman shall within sixty days after the probate of the will file his petition in the circuit court to which he reports praying the court to determine and order whether he, as such guardian, shall elect to take for such widow the provision made for her in said will or to take the provision made for her by law, and the court shall hear evidence and determine whether it is for the best interest of such widow to take under said will or under the law, and shall so order said guardian, and said guardian shall thereupon file his written election for said widow pursuant to such order. Such election shall be in writing, signed by such guardian and acknowledged before some officer authorized to take the acknowledgment of deeds, and shall be made immediately after the determination and order of the court as aforesaid and be filed and recorded in the office of the clerk of the circuit court in which such will is probated and recorded by such clerk in the record of wills, reference being made from such record to the book and page in which the will is recorded and from the record of the will to the book and page in which such election is recorded.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 123.

AN ACT to regulate the speed, operation and registration of locomobiles, automobiles, moter cycles or other motor vehicles upon public highways, and providing penalties.

[S. 8. APPROVED MARCH 6, 1905.]

Motor Vehicles Defined.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the words and phrases used in this act shall for the purpose of this act only be construed as follows: 1, "Motor vehicles" shall include all vehicles propelled by any power other than muscular power, excepting traction engines, road rollers and such motor vehicles as run only upon rails or track.

Speed Regulations.

SEC. 2. That any person or persons operating a motor vehicle on any public highway or in any public place shall not operate the same at any rate of speed greater than is reasonable and proper, having regard to the use in common of such highway or place, or so as to endanger the life or limb of any person, and in no event shall such motor vehicle be operated at a greater rate of speed than eight (8) miles an hour in the business and closely built up portions of any municipality of this state, nor more than fifteen (15) miles an hour in other portions of such municipalities, nor more than twenty (20) miles an hour outside such municipalities.

Ordinances as to Speed.

SEC. 3. That any rate of speed provided in section two (2) of this act shall not be diminished nor prohibited by any ordinance, rule or regulation of any municipality, board or other public authorities.

Motor Equipment—Signals.

SEC. 4. Any person or persons operating a motor vehicle shall at all times provide the same with a good and efficient brake and a suitable bell, horn or other signal, and shall upon approaching any person or persons riding, leading or driving a horse, horses, draft animals or other farm animals upon any public highway or in any public place, signal such person or persons with said bell or horn

either upon overtaking or meeting any such person or persons, giving such person or persons a reasonable time to prepare for the passing of said motor vehicle.

Stop on Signal—Highway Rules.

SEC. 5. That any person or persons operating a motor vehicle shall, upon meeting any person or persons riding, leading or driving a horse, horses or other draft animals or other farm animals on any public highway, upon request or signal by putting up the hand from any such person or persons so riding, leading or driving any horse, horses or other draft animals or other farm animals (if in sufficient light for such signal to be perceptible) immediately bring his motor vehicle to a stop and remain stationary so long as may be reasonable to allow such horse, horses or other draft animals or other farm animals to pass; and upon overtaking on any public highway any person or persons riding, leading or driving a horse, horses or other draft animals or other farm animals the operator of any motor vehicle when signaled as above provided shall reduce the speed of such motor vehicle and before passing shall allow reasonable time for such animal to be driven or conducted to the side of the road: *Provided,* That the driver of any horse, horses or other draft animals or other farm animals shall, upon the approach of any motor vehicle, drive to the right so as to give to said motor vehicle one-half of the traveled portion of the highway or street, and the operator of any motor vehicle, upon the approach of any driver of horse, horses or other draft animals or other farm animals, shall drive his motor vehicle to the right so as to give one-half of the traveled portion of the highway or street to the driver of said horse, horses or other animals.

Owner to Register with Secretary of State.

SEC. 6. That every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered on a blank, to be prepared and furnished by such secretary for that purpose. The filing fee shall be one dollar ($1.00); all of which fees to be paid into the general fund of the state treasury as other fees now collected by the secretary of state are required to be paid into the treasury.

Assignment of Number.

SEC. 7. The secretary of state shall thereupon file such statement in his office, register such motor vehicle in a book to be kept for that purpose and assign it a number, beginning with the number one (1), and so on in the order of filing.

Acquiring Motor—Registering.

SEC. 8. Every person acquiring a motor vehicle shall file a like statement with the secretary of state, and such secretary of state shall in like manner file such vehicle and assign it a number. If the vehicle has previously been registered such fact and number assigned it shall be set forth in the statement, and the previous registration shall be canceled, but the number of such previous registration may be assigned under the new registration.

Metal Seal—Display on Vehicle.

SEC. 9. The secretary of state shall forthwith on such registration and without other fee issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form and two (2) inches in diameter, and have stamped therein the words, "Registered in the office of secretary of state of Indiana under the motor vehicle law, No —," with the registration number inserted therein, which seal shall thereafter at all times be conspicuously displayed on the motor vehicle to which such number has been assigned.

Display of Number—Style and Size.

SEC. 10. Every motor vehicle shall also at all times have the number assigned to it by the secretary of state displayed on the back of such motor vehicle in such manner as to be plainly visible, the number to be Arabic numerals, each 4 inches in height, and each stroke to be of a width of one-half ($\frac{1}{2}$) inch, and also as a part of such number the first three (3) letters of the state name, such letters to be two (2) inches in height, and no other designating mark shall be required by any city, town or other municipality, nor shall any city, town or other municipality require the payment of any license upon any motor vehicle or by the owner thereof, unless such owner reside in such city, town or other municipality.

Registration by Manufacturer or Dealer.

SEC. 11. "Registration by manufacturers or dealers." A manufacturer of, or a dealer in motor vehicles shall register one (1) of each style or type to be manufactured or dealt in by him, and be entitled to as many duplicate registration seals for each type or style so manufactured or dealt in as he may desire on payment of an additional fee of fifty (50) cents for each duplicate seal. If a registration seal and the corresponding number shall thereafter be affixed to and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with sections six (6), eight (8) and ten (10) of this act, until such vehicle shall be sold or let for hire. Nothing in this section shall

be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire.

Non-Residents.

SEC. 12. The provisions of sections seven (7) to ten (10), inclusive, shall not apply to motor vehicles owned and operated by non-residents of this state, provided the owners thereof have complied with any law requiring the registration of owners or in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as provided by section ten (10) of this act.

Penalties.

SEC. 13. If any person neglects or refuses to comply with any of the provisions of this act he may, on conviction thereof, before any justice of the peace or other court having jurisdiction, be punished by a fine not exceeding fifty dollars ($50.00).

Repeal.

SEC. 14. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

CHAPTER 124.

AN ACT providing for the construction of drains and sewers in counties having a city therein of not less than 59,000 nor more than 100,000 population, according to the last preceding United States census, providing a method for assessing and collecting benefits from the property holders owning lands benefited thereby, and by the division of the remainder of the cost between such county and such city, and authorizing such city to issue improvement bonds, and declaring an emergency.

[S. 193. APPROVED MARCH 6, 1905.]

Drainage—County with City 59,000 to 100,000—Procedure.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever any owner or owners of any tract or tracts of land lying outside the corporate limits of any city having a population of between 59,000 and 100,000, according to the last preceding United States census, in this state; or whenever any owner or owners of any tract or tracts of land lying contiguous with or near such tract or tracts of land without such city, and lying within the corporate limits of such city which would be benefited by drainage and which drainage would benefit public

highways of the county and streets and alleys of the city, and which would benefit the public health and be of public utility, and which territory can not be adequately and permanently drained without affecting other lands and without incurring cost in excess of the pecuniary benefits to the property drained, such owner, or owners, may apply for such drainage, by petition to the circuit court or the superior court in the county in which the lands of the petitioner or petitioners are situated. The petition shall describe in tracts of forty acres according to fractions of government surveys, or less tracts when they exist; and all lands either within or without said city benefited thereby which has been platted as shown by the plat book of such city or county shall be described by lots. Such petition shall be sufficient to give the court jurisdiction over all lands described therein and power to fix a lien thereon, if they are described as belonging to the person who appears to be the owner according to the last tax duplicate or record of transfer kept by the county or section of the county where the same is situated. If the right of way of any railroad or street railway company is believed to be affected it shall be sufficient to describe it as the right of way of such railroad company, naming it through section, township and range, giving the numbers of the same. It shall also state that in the opinion of the petitioner either that the public health will be improved or that one or more public highways of the county, or street, or streets within the corporate limits of such city will be benefited by the proposed drainage, or that the proposed work will be of public utility, and it shall state generally the course and location of such drainage, and the method by which it is believed that such drainage can be accomplished in the cheapest and best manner. All assessments made against all tracts, parcels, and lots of land as they may be benefited by such drainage shall be in equitable proportions as the drainage commissioners may deem just, and the final assessment when made shall be a lien upon all tracts, parcels or lots assessed prior to all other liens except taxes and shall be collectible without relief from valuation or appraisement laws with reasonable attorney's fees by foreclosure in any court of competent jurisdiction as mortgages are foreclosed. Any mistake in the description of property, or in the name of the owner in the final assessment shall not vitiate such lien.

Drainage Commissioners.

SEC. 2. The drainage commissioners named herein shall consist of the drainage commissioner appointed, or to be appointed, by the board of commissioners of the county in which such city is located, and the county surveyor of such county and the city civil engineer of such city.

Costs—How Divided Between City and County.

SEC. 3. The cost of such drainage shall be paid by the owners of the property benefited, by the city and by the county in the following proportions: The property shall be assessed and the owner shall pay for the actual benefits thereto, as assessed by such drainage commissioners and approved by the court, and the remainder of the costs shall be apportioned between the city and county on the following basis: The city to pay in proportion as the area of territory benefited within said city is to the area of the entire territory benefited by said drain, and the county shall pay the remainder of such cost.

Docketing—Remonstrance—Proceedings by Commissioners.

SEC. 4. Whenever the petitioner or petitioners shall file their petition in the clerk's office of the circuit court or superior court, he or they shall fix or note thereon the day set for the docketing thereof, and notice for ten days of the filing of such petition shall be given by them by publishing said notice once a week for two weeks in some newspaper of general circulation, published in such county, setting forth the route of such drain as described in the petition, the fact of the filing and the pendency of such petition, and when the same shall be docketed. The petitioners shall also cause copies of such printed notices to be posted up at three public places within the said city and at three public places in the county without the corporate limits of such city and near the line of the proposed work, and one at the door of the court house of such county, and if it appears to the court that notice has been given of the filing of said petition by service of notice as above provided and by posting of notice as above provided not less than twenty days before the day set as the day for docketing the same, the court shall order the same placed on the docket of the said court as an action pending therein. Any person named in such petition as the owner of land shall have ten days, exclusive of Sunday and the day of docketing such action after said docketing, to file with said court any demurrer, remonstrance or objection he may have to the form of said petition. After said ten days have elapsed the court shall consider such remonstrance, demurrer or objection, if any, and if it finds said petition defective, shall dismiss the same at the cost of the petitioner or petitioners unless the same be amended within the time fixed by the court: *Provided*, That if at this stage of the proceedings four-fifths in number of the land owners named in such petition resident in the county where the lands affected are situated shall remonstrate in writing against the construction of such drainage, such petition shall be dismissed at the cost of the petitioners. If no such remonstrance shall be filed and the court deem said petition

sufficient, such court shall make an order referring the same to the drainage commissioners above provided for. All objections to the petition not made within said ten days shall be deemed waived. In the order of referring said matter to said commissioners the court shall fix a time and place for the meeting of said commissioners and a time when they shall report. The clerk shall deliver to them a certified copy of such petition and of such order and they shall meet accordingly. They shall make personal inspection of the lands described in the petition and all other lands likely to be affected by the proposed work and consider: First, whether the drainage proposed is practicable, and second, whether, when accomplished, it will improve the public health and benefit any public highway in the county or any street of such city and be of public utility. If they find any of these inquiries in the negative they shall make report of such finding to the court, and thereupon the court, being fully satisfied as to the correctness of such finding, shall dismiss such petition at the cost of the petitioner. But if they find otherwise, or if the court orders otherwise, they shall proceed and definitely determine the best and cheapest method of drainage, the termini and route, location and character of the proposed work and fix the same by metes and bounds, courses and distances and description, including grades and bench marks, estimate the cost thereof, assess the benefits or damages as the same may be to each separate tract of land to be affected thereby, and to easements held by railways or other corporations, and make report to the court as directed under oath. They may determine that the method of drainage shall be by removing obstructions from a water course or slough, by deepening, widening, straightening or changing its channel, by constructing an artificial channel, ditch, sewer or drain, open or covered, by making levees, or by any or all of such methods combined. Any two of such commissioners may act without the presence or concurrence of the third. The county surveyor shall be the engineer and, assisted by the city engineer, shall make the necessary surveys and shall preserve in his office and turn over to his successors legible copies of all notes made by him in the discharge of his duties: *Provided,* That in all cases where lands are named in said report as affected by such proposed work, which are not named in the petition, the court shall fix a time for hearing the report, and it shall be the duty of the petitioners to give ten days' notice of the time fixed by court for hearing such report to the owners of such lands of the filing of such report by one publication in a newspaper of general circulation at least ten days before the hearing of such report, and in such case the court shall continue the hearing of said entire report, and until such notice has been given, as last above provided. The same proceedings

shall be had in regard to such report as if all the lands mentioned therein, and the owners thereof, had been named in the original notice of the filing of the petition.

Cause for Remonstrance—Damages—Assessments—Trial—Order.

SEC. 5. Upon the making of such report to the court, ten days exclusive of the day of filing of such report and Sundays, shall be allowed to the owner of lands affected by the work proposed and reported benefited or damaged to remonstrate against the report, and the remonstrance shall be verified by the owner of the land or by some person on his or her behalf, and may be for the following causes:

First. That the report of the commissioners is not according to law.

Second. By any person or persons whose lands are assessed as benefited, that the damages assessed to any specified tract of land are exorbitant.

Third. By any person or persons whose lands are assessed as benefited, that his or their specified lands are assessed too much as compared with other lands assessed as benefited, or damaged, specifying the same.

Fourth. By any person or persons whose lands are assessed as benefited, that other tracts, specifying the same, are assessed too low according to the benefits to be received.

Fifth. By any person whose lands are assessed as benefited, that the same will not be affected, nor benefited, by the proposed work to the extent of the assessment.

Sixth. By any person whose lands are assessed as damaged, that the damage assessed is inadequate.

Seventh. That the proposed work will neither improve the public health nor benefit any public highway of the county, or street of the city or cities, nor be of public utility.

Eighth. That the proposed work, as decided upon and reported by the commissioners, will not be sufficient to properly drain the land to be affected.

If, upon hearing, the court shall decide that the first of the above causes of remonstrance is true, the court may direct the commissioners to amend and perfect their report, or the court may, in its discretion, set aside said report, refer the matter back to said commissioners for a new report. In making such order for a new report the court shall fix a time and place of their meeting and when they shall report, and when said new report is made and filed, and the person whose lands are reported as affected may remonstrate within the same time therefrom, and for the same causes as is hereby allowed to remonstrate against the first report.

All questions of fact arising on the petition, report or remonstrance shall be tried by the court without a jury. If the remonstrance or remonstrances shall be sustained by the court on the second, third, fourth, fifth and sixth causes of remonstrance the court may modify and equalize the assessments as justice may require by diminishing the assessments on some tracts and increasing it on others, or by giving or withholding damages, and for such purpose all persons whose lands are reported as affected, or, are stated in the petition as affected, shall be deemed to be in court by virtue of the notice originally given to such parties of the pendency of the petition, or by notice subsequently given to the owners of lands which were not in the original petition, but brought in by the action of the commissioners, and if lands are described in the petition as affected by the proposed work and the commissioners have reported such lands as neither benefited nor damaged, the court may, if the facts and justice shall warrant it make assessments against the same, and as such assessments are so made, modified, and equalized, they shall stand and be adjudged valid. If the finding and judgment of the court be against the remonstrance or remonstrances of the second, third, fourth, fifth and sixth causes, as above set out, the assessments made by the commissioners shall be confirmed and the order of the confirming shall be final and conclusive. If the finding and judgment of the court be in support of the remonstrance or remonstrances on the seventh and eighth causes of remonstrance, the proceedings shall be dismissed at the cost of the petitioners. If there be no remonstrance, or if the finding and judgment shall be in all respects against the remonstrance for the first, seventh and eighth causes of remonstrance, or if the second, third, fourth, fifth or sixth causes of remonstrance, the court can and does equalize the same as above provided, the court shall make an order declaring the proposed work established, and shall make an order approving the assessments as made by the commissioners or as equalized and modified as above provided for, and that the said city shall pay the amount assessed against such city, and that the county shall pay the amount assessed against such county, and shall assign the same to the county surveyor, or any one of the three commissioners above provided for, for construction, or the court may assign it for construction to any disinterested freeholder of the county, and such person to whom the same is assigned shall, before entering upon his duties, take and subscribe an oath of office and give bond payable to the State of Indiana, in such sum as the court may require, conditioned that he will honestly and faithfully perform his duties and account for all moneys that may come into his hands, and turn the same over

to the city treasurer of such city. When the finding and judgment of the court is against the remonstrance for any cause, or when in his, her or their favor on the second, third, fourth, fifth and sixth causes, and the assessments of benefits or damages to the person remonstrating has not changed ten per cent. in favor of the remonstrances, he shall pay the costs occasioned by his remonstrance. In all cases of appeal, trial in the circuit court or superior court, and in all trials in these courts, provided for in this act, the trial shall be by court, without the intervention of a jury.

Construction—Collecting Assessments—Advance Payments.

SEC. 6. Whenever the court shall order the construction of such drain or sewer as provided in the preceding section and fix the assessments for such improvement the owner of the property so assessed may at his option pay the same in five annual installments, with interest at the rate of six per cent., payable annually, and without relief from valuation or appraisement laws and attorney's fees, the first of said installments shall be due and payable one year from the date of the final order fixing such assessment, and whoever desires to exercise such privilege of payment by installments shall at any time before sixty days after the final order of assessment by such court enter into an agreement in writing that in consideration of such privilege he will make no objection to any illegality or irregularity with regard to assessment against his property and will pay the same as required by law with the specified interest, and if the said property holder owns more than one tract, parcel or lot and wishes the bonds to be issued separately for the assessment against each tract, parcel or lot he shall in such agreement so state. Such agreement shall be filed with the department of finance of such city. In all cases where such agreement has not been signed and filed within the time limited the entire assessment shall be payable in cash to the treasurer of such city, without interest, before the expiration of thirty days thereafter. If such assessment shall not have been paid at the expiration of the sixty days the total assessment shall bear interest at the rate of six per cent. from the date of the final assessment, and the commissioner or person in charge of the construction of said ditch or drain shall proceed to collect the same by foreclosure as herein provided. Persons signing and filing the agreement in the time limited and entitled to pay in installments may, nevertheless, at any time after the expiration of the first year pay up their entire assessments and stop the interest thereon and be relieved of the lien of the same on condition that they at the time pay up all accrued interest, and also interest for six months in advance. If the

said county and the said city shall fail to pay the assessment made against such corporation within the period of sixty days after the same is made, then the said assessment shall be paid in five annual installments, with interest at the rate of six per cent. per annum and attorney's fees, the first of said installments to be due and payable one year after the date of the final assessment, and the common council of such city and the county council of such county are hereby directed to levy a tax sufficient each year for a period of five years to meet the installments of principal and interest upon their respective assessments as the same shall become due, and when the tax assessed by the county council to pay the installments upon its assessment shall be collected the same shall be paid to the city treasurer and credited to the account of such ditch or drain.

Drain or Sewer Bonds.

SEC. 7. For the purpose of anticipating the collection of such assessments the department of finance shall issue drain or sewer bonds payable out of the funds actually paid to and collected by such city on said account, the proceeds of the same to be applied exclusively to the payment of the cost of the particular drain or sewer for the anticipation of which assessment the same were issued. Said bonds shall bear the name of the sewer or drain for which they were issued. Said bonds shall be issued for each separate lot or parcel of ground, but where several lots or parcels of ground assessed are owned by one person one bond may be issued for the entire assessment of such property unless such person shall designate otherwise in his agreement on file with the department of finance. The bonds issued for the purpose of anticipating the collection of the assessments against the county and city shall be in denominations not exceeding $1,000. Said bonds shall bear interest at the rate of six per cent. per annum and shall have coupons attached representing such installments of principal and interest as the same fall due. Said bonds shall be payable in five equal installments, the first installment one year after the date of the final assessment, and one of the remaining installments each year thereafter until the entire amount of principal and interest shall have been paid. After the issuance of such bonds no suit shall lie to enjoin the collection of the assessment for which such bond was issued and the validity of the same shall not be questioned, and if the owner of the property shall fail to pay each installment of the assessment for which such bond was issued as the same becomes due, then the entire amount of such bond shall at once become due and collectible, and after such bonds are issued such city shall dispose of the same for not less than par or turn such bonds over to the contractor after final completion and acceptance of such drain or

sewer, such contractor to take the bonds at their face value in payment under his contract. Such bonds when issued shall transfer to the holder thereof all right, title and interest in and to the assessment and lien upon the respective lots and parcels of ground hereinbefore provided for, with full power to enforce the collection thereof by foreclosure in any court of competent jurisdiction as mortgages are foreclosed and without relief from valuation and appraisement laws, recovering reasonable attorney's fees and costs.

Duty of Commissioner.

SEC. 8. The commissioner or other person charged with the execution of the work as above provided for shall proceed to have the same constructed. He shall pay, by issuing orders on the city treasurer, the costs and all expenses incident to the construction of such work, including reasonable attorney's fees of the petitioners in the preparation and presentation of the petition (not exceeding an amount equal to two per centum on the first $10,000, and one-half per centum on the excess over $10,000 of the entire costs of such construction as shown by the report of the commissioners, as approved by the court), and shall pay such other costs and expenses as the court shall deem proper out of the funds collected from the assessments made and confirmed as aforesaid: *Provided,* That no claim for costs, expenses or otherwise, except on contract for constructing the work, shall be paid until it is presented to the court, and by the court allowed. He shall pay all damages that have been assessed and allowed by the court, and the cost of constructing the work. He shall prepare and place on the file in the office of the county surveyor, complete drawings and specifications of said work and thereupon he shall cause a notice to be published, in one daily or weekly newspaper of general circulation published in such county, once a week for two weeks, informing the public and contractors of the general nature of the work, and of the fact that the drawings and specifications are on file in said office, and calling for sealed proposals for said work, by a day not earlier than ten days after the last publication. Such board of commissioners shall, if a satisfactory bid be received, let such contract to the lowest and best bidder. Such board may impose further conditions upon bidders with regard to bonds and surety guaranteeing the good faith and responsibility of such bidders, or insuring faithful completion of such work according to contract, or for keeping the same in repair for a length of time, or for any other purposes.

Account—Report—Labor Lien.

SEC. 9. Said commissioner or person charged with the execution of such work shall keep accurate account of all moneys col

lected by him, and shall turn the same over to the treasurer of such city, and also keep a correct record of all orders issued by him on the city treasurer on account of the work, and he shall keep an exact account of the time occupied by him in the performance of his duties. The work of constructing such drainage by the contractor to whom the contract is awarded shall be under the supervision of the board of commissioners, who shall from time to time, as the court may direct, report to the court under oath as to the progress of such construction. The court shall allow said commissioners for their services a sum not exceeding five dollars per day for the time actually necessarily employed, but in no case shall the court allow the said board of commissioners a sum total in excess of two per cent. of the costs of the construction of said drain. All laborers and other persons who shall hereafter perform any labor or furnish any materials in the construction of any work under the provisions of this act shall have a lien upon the fund raised for the payment of the same, and upon notice in writing filed with the city treasurer of the amount due, and what the same is for, such city treasurer shall withhold payment to the contractor for such work to amount sufficient to satisfy said lien until the same is adjusted and paid, and in case of disagreement between contractor and the person claiming such lien as to the amount or validity thereof, the court ordering the construction thereof shall, upon motion of the commissioners, the contractor, or the person claiming such lien, determine such matter; and upon failure to comply with the above provisions such person in charge of such work shall be liable on his bond for the amount improperly paid over to such contractor.

Emergency.

SEC. 10. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 125.

AN ACT for the printing of additional copies of the report for the years 1903-1904 of the commissioner of fisheries and game for the State of Indiana, making an appropriation therefor, and declaring an emergency.

[S. 352. APPROVED MARCH 6, 1905.]

Fish and Game Report—Additional Copies—Distribution.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the commissioners of public printing and binding

shall cause to be printed four thousand additional copies of the report of the commissioner of fisheries and game of the State of Indiana for the years 1903-1904, not provided for by the state printing board, twenty-five of which shall be delivered to each member of the sixty-fourth general assembly, and the remainder of which shall be distributed by the commissioner of fisheries and game, and the expense of printing and distributing the same shall be paid out of any funds not otherwise appropriated, to be allowed by the commissioners of the public printing and binding.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in effect from and after its passage.

CHAPTER 126.

AN ACT regulating the issuance of licenses to marry, prohibiting the issuance of such license to certain persons, prescribing the duties of the clerk of the circuit court, and providing penalties for the violations of the provisions of this act.

[H. 118. APPROVED MARCH 6, 1905.]

Marriage—Written Application for License.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That no license to marry shall be issued except upon written and verified application. Such application shall contain a statement of the full christian and surname, color, occupation, birthplace, residence and ages of the parties, whether the marriage contemplated is the first, second or other marriage, together with the full christian and surnames, residence, color, occupation and birthplace of their parents, including the maiden name of the mother, together with such other facts as may be necessary to determine whether any legal impediment to the proposed marriage exists. Such application shall be recorded by the clerk, together with the license and certificate of marriage in a book provided for that purpose, which book shall be a public record.

Uniform Applications—State Board of Health.

SEC. 2. Applications for license to marry shall be uniform throughout the state and it is hereby made the duty of the state board of health to furnish a form therefor to the several clerks at once upon the approval of this act: *Provided,* That said state board of health may revise said forms so furnished from time to time as may be advisable.

License Refused—To Whom.

SEC. 3. No license to marry shall be issued where either of the contracting parties is an imbecile, epileptic, of unsound mind or under guardianship as a person of unsound mind, nor to any male person who is or has been within five years an inmate of any county asylum or home for indigent persons, unless it satisfactorily appears that the cause of such condition has been removed and that such male applicant is able to support a family and likely to so continue, nor shall any license issue when either of the contracting parties is afflicted with a transmissible disease, or at the time of making application is under the influence of an intoxicating liquor or narcotic drug.

License Refused—Clerk's Duty—Hearing in Circuit Court.

SEC. 4. In those cases when the right to a license is not made to appear the clerk shall refuse to issue the same. At once upon such refusal he shall certify the proceeding to the circuit court without formality or expense to the applicants, who shall be notified by him of such action. Such application shall thereupon be at the earliest practicable time heard by the circuit judge without a jury in court or in chambers during the term or in vacation as the case may be, and his finding that a license ought to issue or ought not to issue shall be final and the clerk shall act in accordance therewith, the true intent of this section being to secure for the applicants a hearing by said judge without affirmative action by said applicants, and to give notice to them of such hearing, its time and place, without delay or expense.

Marriage Void, When.

SEC. 5. If persons resident of this state with intent to evade the provisions of section 1 and section 3 go into another state and there have their marriage solemnized with the intention of afterward returning and residing in this state, and do so return and reside in this state, such marriage shall be void, and such parties, upon returning to this state, shall be subject to all the penalties provided for in this act: *Provided,* This section shall not apply to persons who in good faith become or are citizens of any other state.

False Statement—Penalty.

SEC. 6. Whoever procures the issuance of a license to marry by any false statement, representation or pretense shall be fined in any sum not exceeding five hundred dollars.

Unauthorized Marriage Ceremony—Penalty.

SEC. 7. Whoever being duly authorized to solemnize marriage in this state knowingly joins in marriage persons who have not complied with the statute relative to the procurement of marriage license shall be fined in any sum not exceeding five hundred dollars.

Illegal License by Clerk—Penalty.

SEC. 8. Every clerk of the circuit court who shall issue any license contrary to the provisions of this act shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars.

CHAPTER 127.

AN ACT authorizing the admission of widows and wives of disabled or destitute soldiers, sailors and marines of the war of the rebellion, from 1861 to 1865, the Spanish-American war and the Philippine insurrection to the Indiana state soldiers' home, and repealing all laws in conflict therewith, and declaring an emergency.

[S. 263. APPROVED MARCH 6, 1905.]

Indiana State Soldiers' Homes—Eligible to Admission.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the widows and wives of disabled or destitute soldiers, sailors and marines, who have received an honorable discharge for service during the war of the rebellion, from 1861 to 1865, and the Spanish-American war or the Philippine insurrection shall be admitted to the Indiana state soldiers' home under such rules and regulations as may be adopted by the board of trustees, without regard to age or date of marriage of such widow or wife to such soldier, sailor or marine.

Repeal.

SEC. 2. All laws in conflict with this act are hereby repealed.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 128.

AN ACT defining the kind of securities in which the assets or capital, required of foreign insurance companies to do business in this state, shall be invested, and declaring an emergency.

[S. 337. APPROVED MARCH 6, 1905.]

Insurance—Foreign Companies—Securities.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever any law of this state, now or hereafter enacted, regulates the admission of insurance companies of other states or countries to do business of any kind of insurance in this state and fixes the amount of capital or assets required of such insurance companies to do business in this state, then the amount of such capital or assets so required of such companies to do such business in this state shall be invested in the bonds of some one or more of the states of the United States or of the United States or in bonds of some one or more of the counties, cities or towns of this state or some other state of the United States which have not exceeded the limit of tax levies allowed by law, or some foreign country in which such company is authorized to do business, at the current market value thereof at the date of the admission of such company to do business in this state or in first mortgage bonds or mortgages on real estate worth double the amount for which the same is mortgaged and free from prior incumbrances.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

CHAPTER 129.

AN ACT concerning municipal corporations.

[S. 75. APPROVED MARCH 6, 1905.]

I. TOWNS.

ORGANIZATION.

Survey and Map.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That persons intending to make application for the incorporation of a town, as hereinafter provided, shall cause an accurate survey and map to be made of the territory proposed to be embraced within the limits of such town. Such survey shall be made by a practical surveyor, and shall show the courses and distances of the boundaries of such territory, and the quantity of land contained therein; and the accuracy of the survey and map shall be verified by the affidavit of the surveyor, written thereon or attached thereto.

Census.

SEC. 2. Such persons shall also cause an accurate census to be taken of the resident population of such territory, as it may be on some day not more than thirty days previous to the time of presenting such application to the board of commissioners, as hereinafter provided; which census shall exhibit the name of every head of a family residing within such territory on such day, and the number of persons then belonging to every such family; and the census shall be verified by the affidavit of the persons taking the same.

Survey, Map and Census Made Public.

SEC. 3. Such survey, map and census, when completed and verified, shall be left at some convenient place within such territory, for examination by those having an interest in the organization of such town, for a period of not less than twenty days before the presentation of the application to the board of commissioners of the county. Notice of the intention to present such application and of the place where the same is left for examination, shall be given by publication once in some newspaper published within such territory, if any there be, and, if not, by posting in three public places therein, which notice by publication or posting shall be given not less than twenty days before the first day of the regular session of the board of commissioners at which such application is to be presented.

Application to County Commissioners.

SEC. 4. Such application shall be by petition to the board of commissioners of the county in which such territory or the greater part thereof is situated, which petition shall be subscribed by not less than one-third of the whole number of the qualified voters residing within such territory, as shown by such census. The petition shall set forth the boundaries of the territory, the quantity of land embraced therein and the resident population, and shall be duly verified by one or more of the petitioners. Such petition, together with the survey, map and census, shall be filed with the county auditor at or before the time indicated in the notice of application, and shall by such auditor be presented to such county board, and be acted upon by the board as soon thereafter as the same can be considered.

Hearing and Order.

SEC. 5. The board of commissioners, in hearing such application, shall first require proof that the survey, map and census were subject to examination in the manner and for the time required by section three of this act, and that the notice in said section prescribed was duly given; and if such board be satisfied that the requirements of this act have been fully complied with, it shall make an order declaring that such territory shall, with the assent of the qualified voters thereof, as hereinafter provided, be an incorporated town, by the name specified in such application, provided such name differ from that of every other town in the state; and the board shall include in such order a requirement for notice of a meeting of the qualified voters resident in the territory, at a convenient place therein, to be named by the board, and on a day within one month after such order, to determine whether such territory shall be an incorporated town.

Notice to Voters—County Auditor.

SEC. 6. The county auditor, in pursuance of such order of the board, shall give ten days' notice of such meeting of the electors, by publication in a newspaper, if one be printed in such territory; and, if not, by posting copies of such notice in not less than ten public places in such proposed incorporated town, at least ten days before such meeting.

Polls—How Long Open.

SEC. 7. At the meeting of the qualified voters, as herein provided, polls shall be opened at nine o'clock in the forenoon of such day, and shall be kept open until four o'clock in the afternoon, when they shall be closed.

Election Board.

SEC. 8. The voters at such meeting shall first proceed to the election of three of their number as inspectors. Such inspectors, after being duly chosen and qualified, and after having selected one of their number as clerk, shall, without delay, proclaim to the meeting that the polls are open, and that they are ready to receive the ballots of the voters.

Election—Effect—Expenses.

SEC. 9. The qualified voters of such territory shall vote by ballots having thereon the word "Yes" and the word "No." The inspectors shall make a statement showing the vote as in case of other elections, and shall return the same to the county auditor, to be laid before the board of commissioners at its next regular or adjourned session, or at any session called for that purpose. If the board be satisfied of the legality of the election, and that a majority of the ballots are in favor of incorporation, it shall make an order declaring that such town has been incorporated by the name adopted, which order shall embrace a copy of the inspectors' return and be conclusive of such incorporation in all suits by or against such corporation; and the existence of such town, by the name and style aforesaid, shall thereafter be judicially taken notice of in all courts and places in this state, without specially pleading or proving the same. If the commissioners find that a majority of the ballots are against incorporation they shall so declare, and no further proceedings shall be had in relation to such matter. An appeal may be taken to the circuit court from the action of the board declaring or refusing to declare that such town has been incorporated. In case the town is not incorporated, all costs and expenses, including expenses of election and appeal, if any be had, shall be paid by the petitioners, who on filing their application shall also file a bond, payable to the State of Indiana for the use of the board of commissioners of the county, and to the approval of such board, conditioned for the payment of all such costs and expenses. In case the town is incorporated, all such costs and expenses shall be paid by the town.

Ward Boundaries.

SEC. 10. Such inspectors, when such town has been by the county board declared incorporated, shall at once proceed to divide the town into not less than three, nor more than seven wards, having due regard to the equitable apportionment of population among the same, and the convenience and contiguity of the wards. Thereafter the trustees of any town incorporated under this act, may at any time sixty days or more preceding the election for town officers, redistrict the town in like manner.

Corporation Election—Notice.

SEC. 11. After such town has been divided into wards, such inspectors shall immediately give ten days' notice, by publication in a newspaper, if one be printed within such town, or, if there be no such newspaper, by posting such notice in one public place in each ward, of an election to be held in such town, for the purpose of electing officers thereof, naming in such notice the place where and the day when such election shall be had. Such place shall be at some convenient location in the town and such day shall be within twenty days from the publication or posting of such notice. Every subsequent notice of election shall be given, in like manner, by the clerk of the town.

Election Inspectors.

SEC. 12. Such inspectors shall preside at such first election, and be inspectors thereof. They shall receive and canvass the votes, and shall immediately thereafter, and before adjourning, declare the election of the officers so chosen, deliver to such officers certificates of their election, and make out and file with the clerk of the circuit court of the county in which such town is situated the certified statement of election provided for in section fifteen of this act. At all subsequent town elections one inspector for each voting precinct shall be appointed by the board of town trustees, and the judges and other officers of each election board shall be selected as provided by law for the selection of the officers of township election boards.

Election Precincts.

SEC. 13. In town elections, after the first election, the election precincts shall, so far as practicable, be the same as those fixed for general elections; and the opening and closing of the polls and all other matters relating to such town elections shall be conducted in conformity with the provisions of the general election laws applicable thereto.

Elective Officers—Terms.

SEC. 14. The elective officers of every town shall be one trustee from each ward; and also a clerk and treasurer for the town at large: *Provided,* That each trustee shall be voted for by all the electors of the town, but shall be a resident of the ward for which he is elected: *And provided, further,* That nothing herein contained shall prevent the respective offices of clerk and treasurer from being held by the same person. The officers chosen at the first election, hereinbefore provided for, shall hold their offices until the first Monday of January following the next regular town election, and until their successors are elected and qualified.

On the first Tuesday after the first Monday in November, in the year 1905, and on the same day every four years thereafter, there shall be held an election in each town in this state for the election of the elective officers of such town; and there shall be no election in any town prior to that date, save only the first town election provided for on the organization of towns. The officers elected on the first Tuesday after the first Monday in November, 1905, shall hold their respective offices from the termination of the terms of their respective predecessors until the hour of twelve o'clock noon of the first Monday in January, 1910; and they shall be ineligible to be re-elected, respectively, to the same offices at the election to be held on the first Tuesday after the first Monday in November, 1909. At the expiration of the terms of the present incumbents as elected by the law heretofore in force, and following the election and qualification of the officers elected at such regular town election on the first Tuesday after the first Monday of November, 1905, all town officers then in office shall forthwith turn over their respective offices to their successors so elected and qualified, together with all papers, property and effects in their custody as such town officers, and shall thereupon vacate such offices, and the terms of such new officers shall continue until 12 o'clock at noon of the first Monday of January, 1910, and thereafter, the terms of all town officers elected at any regular election shall begin at noon on the first Monday of January following their election and qualification, and shall continue four years thereafter; and every such officer shall be ineligible to re-election to the same office in any period of eight years. In all towns of the State of Indiana where by law heretofore in force an election for such elective town officers would occur prior to the election in November, 1905, hereinbefore provided for, such prior elections shall not be held and the present officers of such towns shall continue in office until 12 o'clock at noon on the first Monday in January, 1906, at which time the terms of such officers shall terminate and the terms of the officers elected under the provisions of this act shall begin.

When Elected—Tie Vote—Certificate.

SEC. 15. The persons in each ward receiving the greatest number of votes as trustees of such wards, respectively, shall be declared elected as such trustees; and the persons receiving the greatest number of votes, respectively, for clerk and treasurer, as designated by the ballot for such office, shall be declared so elected. And if two or more persons shall have an equal and the highest number of votes for any of such offices, the inspectors of such election shall forthwith determine, by lot, which of them shall be declared elected. And it shall be the further duty of such in-

spectors to make a certified statement, over their own signatures, of the persons elected to fill the several offices in such town, and to file the same with the clerk of the circuit court of the county, within ten days from the day of such election. And no act or ordinance of any board of trustees chosen at any such election shall be valid until the provisions of this section are substantially complied with.

Clerk Circuit Court—Record—Fee.

SEC. 16. It shall be the duty of the clerk of the circuit court of the proper county forthwith to make a record of such certified statement of election; for which service there shall be paid the same fee is allowed for similar services of such clerks in other cases.

Vacancy in Board.

SEC. 17. A vacancy occurring in the board of town trustees, or in any other elective office of such corporation, shall be filled by appointment, at a special meeting of the trustees called for that purpose; but such appointment, if to fill a vacancy in the office of trustee, shall be made from the ward in which the vacancy occurred, and no appointment shall extend beyond the first Monday of January following the next regular election provided for in this act.

President—Oath—Appointment of Marshal.

SEC. 18. The board of trustees, elected as aforesaid, shall choose a president from their own body; and such trustees and other officers elect, shall, within ten days after such election, take and subscribe, before some person authorized to administer the same, the usual oath or affirmation for the faithful performance of the duties of their respective offices. The board of trustees shall also appoint a marshal, who shall be the chief police officer of such town, and who may also be required to act as street commissioner and chief of the fire force, or either. He shall serve during the pleasure of the board.

Corporate Name of Town.

SEC. 19. The president and trustees of such town, and their successors in office, shall constitute a body politic and corporate, by the name of the "Town of ————————," according to the name of such town, and by such name shall have authority to prosecute and defend suits to which such town is a party.

Towns Heretofore Organized.

SEC. 20. All towns heretofore organized by virtue of laws enacted under the present constitution shall be governed by the provisions of this act. Any town heretofore incorporated, under a

charter granted prior to the adoption of the present constitution, may, by a resolution of the board of trustees or other municipal board thereof, entered upon the record book of the corporation, become incorporated under this act; but such resolution shall be deemed a surrender of all the rights and franchises acquired under any former act of incorporation or acts amendatory or supplementary thereto. A copy of such resolution shall be filed with the clerk of the circuit court of the proper county, and entered by him of record in the civil order book of such court. Trustees and other officers of such incorporated towns, by whatever name designated, performing duties of a like nature to those required of officers created by this act, shall continue to be the officers of such towns, by the names as specified in this act, until superseded by the officers elected at the next ensuing regular election, or duly appointed thereafter.

Debts Not Affected.

SEC. 21. No debt or liability due to or from any incorporated town shall be impaired by reason of such town being brought within the provisions of this act and becoming incorporated under it.

DISSOLUTION OF TOWN OR CHANGE OF NAME.

Dissolution Proceedings.

SEC. 22. Whenever a petition, signed by not less than two-thirds of all the legal voters of any incorporated town, is presented to the board of trustees of such town, duly sworn to by one or more of such petitioners, asking for the dissolution of the corporation, or for the change of its name, and in such petition setting forth the reasons therefor, the trustees shall, if they deem the reasons stated sufficient, cause an election by the legal voters of the town to be held, to determine whether the prayer of the petition shall be granted. Such petition shall be filed with the town clerk, and the petitioners shall also file therewith a census of all the legal voters of the town, which shall be taken within ten days prior to the filing of the same and shall embrace only the names of such legal voters as may reside therein at the time the census is taken. The person taking such census shall attach thereto his affidavit that the same is correct. On the filing of such petition and census, the clerk shall give notice of such filing and of the day of hearing the same; which notice shall be by publication twice in a newspaper of general circulation printed in such town, the last of which publications shall be not less than ten days before such hearing; and if there be no newspaper printed in the town, then in a newspaper published at the county seat of the county in which such town is

located, and by posting copies thereof in at least one public place in each of the wards of such town. The board of trustees shall, at the time named in such notice, hear and consider such petition and census, and shall also consider all statements, oral and written, that may be presented at such meeting both in favor of and in opposition to the granting of such petition. Thereupon the board shall determine whether the reasons advanced by such petitioners are sufficient to justify the submission of the question of dissolution or change of name to the voters of the town for their decision. Any voters who signed the petition may, before such determination by the board, withdraw their names therefrom, and no names so withdrawn shall be counted by the trustees in ascertaining whether the petition has been signed by the number of voters required by this section. If the board finally determine to submit the question as to the dissolution or change of name of such corporation to the voters of the town for their decision, it shall fix the time of holding an election for that purpose, of which election the clerk shall give at least twenty days' notice, which notice as to publication and posting shall be given in the manner hereinbefore provided for notice of the filing and hearing of such petition. Such election shall be held in the several precincts of such town and return thereof made to the board of trustees as in case of other elections. The voters shall vote by ballot on the question so submitted to them, "Yes" or "No." If two-thirds of all the votes so cast shall be in the affirmative, and four-fifths of all the legal voters of the town, as shown by the census taken, shall have voted, the question so submitted shall be regarded as determined in the affirmative; and, within four days after the canvass of the vote by the trustees, a statement of all the votes cast at the election, affirmative and negative, shall be prepared by the town clerk, signed by the trustees and attested by the clerk, and filed in the office of the clerk of the circuit court of the county in which such town is situated. If the vote be in favor of a change of name, the name of the town shall be changed, accordingly, from and after the expiration of thirty days from the date of filing such report in the office of the clerk of the circuit court. If the vote be in favor of a dissolution of the corporation, such town shall, at the expiration of six months from the filing of such report in the office of the clerk of the circuit court, cease to be a corporation; and the property owned by the corporation, after payment of debts and liabilities, shall be disposed of in such manner as a majority of the voters of the town, at any special election therefor, may direct; but no such dissolution shall affect the rights of any person in any contract to which such corporation is a party. In case the prayer of the petition shall not be granted, all costs and expenses incurred thereby, including the expenses of such election, if held, shall be paid by the petition-

ers, who, on filing their petition and census shall give a bond, payable to the board of trustees, to the approval of the board, and in such sum as the board may direct, for the payment of all such costs and expenses. Any person aggrieved by the action of the board of trustees on such petition and census, or the result of such election, may appeal to the circuit court of the county in which such town is situated, within thirty days therefrom, by giving to the board written notice of such appeal and by filing with the town clerk a bond, with surety to the approval of the board, in the sum of five hundred dollars, conditioned that such appeal will be duly prosecuted and all costs thereof be paid if the appeal be decided against such appellants. The clerk shall thereupon file in the office of the clerk of the circuit court a transcript of all proceedings, together with all papers in the case, and no further action shall be taken by the board until such appeal be heard and determined. Such appeal shall be heard by the circuit court without a jury. There may be a change of venue from the judge, but not from the county.

DUTIES OF TOWN OFFICERS.

Bonds of Officials.

SEC. 23. The clerk, treasurer and marshal shall, within ten days from their election or appointment, each and severally give bond, payable to the State of Indiana, with surety to the approval of the board of town trustees, in such an amount each as the board shall direct; but the bonds of each of such officers, respectively, shall be for a sum not less than double the amount of the estimated public funds that shall come into his hands at any time during the term of his office.

Transfers to Successor.

SEC. 24. All books, vouchers, moneys, or other property belonging to the corporation, and in charge or possession of any officer of the same, shall be delivered to his successor when qualified.

Treasurer—Duties.

SEC. 25. The treasurer of every incorporated town shall receive and care for all the funds of the town and pay out the same only on the order of the board of trustees, and he shall so keep his accounts as to show when and from what sources all moneys paid to him have been derived, and to whom and when such moneys, or any part thereof, have been paid out. He shall, on the first day of each month, file with the town clerk for the information of the board of trustees, a statement of the receipts and disburse-

ments of the town treasury for the preceding month, showing also the balance in each of the several funds available for the uses of such town. The treasurer's books, accounts and vouchers shall at all time be subject to the examination of the board of trustees or of any person appointed by such board for that purpose; and it is hereby made the duty of such board to examine the same at a regular meeting of the board, on some day during the month of December in each year, and then to have settlement with such treasurer; which settlement shall be entered in full on the records of such board.

Treasurer's Settlement—Publication.

SEC. 26. It shall be the duty of the board of town trustees, immediately after the annual settlement with the treasurer of such corporation, to publish in a newspaper, if one be printed therein, or, if there be no such newspaper, then by posting in at least one public place in each ward, an exhibit of the receipts and expenditures, specifying the sources of such receipts, what appropriations were made, for what objects, and the specific amount of each.

Clerk—Duties and Powers.

SEC. 27. The clerk of every town shall have the custody of the records, books and papers of the board of trustees; he shall issue all licenses authorized by law, upon the presentation of the receipt of the treasurer showing that the money therefor has been paid into the town treasury; and shall also attend all meetings of the board and record the proceedings thereof, and perform all other duties pertaining to his office and required of him by law or the ordinances of the town. Such clerk is authorized to administer oaths, to take depositions and to take acknowledgments of all instruments required by law to be acknowledged; and he shall have custody of the seal of the town.

Marshal—Powers—Fees.

SEC. 28. In executing the orders of the trustees or enforcing the by-laws and ordinances of such town, the marshal shall possess the powers and be subject to the liabilities conferred by law upon constables. He shall, in addition, have the powers and jurisdiction of a constable throughout the county in which such town is situated, and shall be entitled to the same fees as a constable while acting as such.

Deputy Marshals—Powers.

SEC. 29. The board of trustees of any town may, by ordinance, authorize the marshal to appoint deputy marshals, not ex-

ceeding in number one for each ward. Such deputies, in executing the orders of the board or enforcing the ordinances of the town shall possess the powers and be subject to the liabilities of the marshal. One of such deputies may be designated humane officer, and his duties shall be the same as those set out in section one hundred and seventy-four of this act for humane officers in cities. The board of trustees shall regulate the amount of bond. compensation and term of service of such deputies. They shall be subject to the orders of the marshal, who may discharge them at any time.

Compensation of Officers.

SEC. 30. The trustees, clerk, treasurer and marshal, respectively, shall receive for their services such compensation as the board of trustees, by ordinance, may direct; and such board shall cause to be paid to all other town officers and employes a just and reasonable compensation for their services.

POWERS OF BOARDS OF TOWN TRUSTEES.

Trustees—Powers Defined.

SEC. 31. The board of town trustees shall have the following powers:

First. To organize by selecting one of their number as president, with the city clerk as clerk of the board, and to have a common seal and alter the same.

Second. To purchase, hold and convey any estate, real or personal, for the use of the corporation, so far as such purchase or conveyance may be necessary to carry out the objects contemplated in this act.

Third. To organize fire companies, to regulate their government and the times and manner of their exercises; to provide all necessary apparatus for the extinguishment of fires; to cause owners of buildings to provide ladders and fire buckets, which are hereby declared to be appurtenances to the real estate and exempt from execution, seizure or sale; and if any such owner shall refuse to procure suitable ladders or fire buckets, after reasonable notice, the trustees may procure and deliver the same to him, and, in default of payment therefor, may recover of such owner the value of such ladders or fire buckets, by suit before any justice of the peace in the proper township, and costs accrued thereby; to regulate or prohibit the storage of gun powder and other dangerous material; to direct the construction of a place of safe deposit for ashes; and may, under an order entered upon the proper book of the board, visit, or direct the chief of the fire force to visit and examine, at all reasonable hours, dwelling houses, lots, yards, enclosures and

buildings of every description, to discover if any of them are in a dangerous condition and provide proper remedies for such danger; to regulate the manner of putting up stoves and stove-pipes; to prevent out-fires and the use of fireworks and the discharge of fire-arms within the limits of such corporation, or such parts thereof as the board may think proper; to compel the inhabitants of such town to aid in the extinguishment of fires, and prevent its communication to other buildings, under such penalties as are in this act authorized; to construct, purchase and preserve engine-houses, fire stations, fire apparatus, reservoirs, wells, pumps and other water-works for supplying such town with water for fire protection and other purposes and to regulate the use thereof and to levy taxes or issue bonds to be sold at not less than par and to bear not more than six per cent. interest per annum, in the payment of liabilities thereby contracted; to establish fire limits, embracing so far as practicable the business part of the town, and to prevent the erection of wooden buildings within such limits; and, generally, to establish such other measures of prudence for the prevention and extinguishment of fires as the board shall deem proper.

Fourth. To declare what shall constitute a nuisance, and to prevent, abate and remove the same; and take other measures for the preservation of the public health as the board shall deem necessary.

Fifth. To restrain fowls and animals from running at large, and to impound and sell the same.

Sixth. To prohibit gambling and other disorderly conduct, and to authorize the seizure and destruction of gambling apparatus; to suppress and prohibit the keeping of houses of ill-fame; to punish intoxication, common prostitutes and their associates, and immoderate driving and riding; to regulate or prohibit the use of fire-arms, fireworks, or other things tending to endanger persons and property; to prevent interference with the free use of the streets and alleys of the town; and to preserve peace and good order and prevent vice and immorality.

Seventh. To license, regulate or restrain auction establishments, street auctions, transient salesmen, itinerant venders of goods, wares and merchandise, of whatsoever nature, whether denominated bankrupt stocks, fire sales, assignees's sales, or by any other terms used for the purpose of attracting trade, and whether managed by the owners or by agents; also hacks, drays and all vehicles carrying passengers for hire or moving goods or other articles for pay; and all tables, alleys, machines, devices, and places for sports or games, kept for hire or pay; likewise the business of pawnbroking; also traveling peddlers, public exhibitions, and the sale of spirituous, vinous, malt and other intoxicating liquors.

A sum not exceeding the amount required by the statutes of the state for license to sell or retail intoxicating liquors may be required to be paid into the treasury of the corporation by the person so licensed before receiving such license.

Eighth. To establish and regulate markets and build market houses, and to direct the location of slaughter houses; but no town shall erect a market house or other permanent structure on any street.

Ninth. To lay out, open, change, pave and otherwise improve the streets, alleys, sewers, sidewalks and crossings of the town, and keep them in repair; and also to change or vacate such streets or alleys.

Tenth. To appoint a street commissioner, a chief of the fire force and a marshal; and to adopt rules and regulations for the government of such officers: *Provided,* That the duties of any or all of such officers may be assigned, by ordinance, to the marshal.

Eleventh. To prohibit the encumbrance of the streets, alleys and other public grounds of the town, and to forbid the riding or driving of any vehicle or animal on any sidewalk therein, except in the necessary act of crossing the same.

Twelfth. To regulate the running of railroad trains, street and interurban cars and all other vehicles on or across the streets and alleys of the town; and to compel all railroad, street car and interurban companies to lay their tracks so as to conform to the established grades of streets and alleys.

Thirteenth. To contract for lighting the streets and other public grounds of the town, with gas, electricity, or other suitable light: *Provided, however,* That the board of trustees, by a two-thirds vote of all their number, may, at a special meeting of the board called for that purpose, of which meeting a notice shall be given for two weeks by publication in a newspaper, if one be published in such town, and, if not, by posting in at least one public place in each ward, cause to be constructed at the expense of the town an electric light plant or a gas plant for the purpose of furnishing public, commercial and domestic lights for such town. For the purpose of paying for such plant the board may issue the bonds of the town to an amount not exceeding the contract price of the plant and bearing not to exceed six per cent. interest per annum payable annually or semi-annually, and sell the same at not less than par value; and may provide by ordinance for the control and management of such plant.

Fourteenth. To require any railroad company, operating a line of railroad over a street of the town, to maintain a street light at such crossing, to be lit at night during the passage of every train and for not less than thirty minutes prior thereto: *Provided,* That such board shall have no authority to require such railroad

company to maintain any different kind of light at such crossing from that maintained by the town at other street crossings.

Fifteenth. To insure the public property of the town.

Sixteenth. To purchase, lay out and regulate cemeteries.

Seventeenth. To plant trees upon public grounds and along the streets of such town, and provide for their culture and preservation; to inclose, manage and care for any public square or other common or public grounds within such corporation; and to survey, determine, regulate and care for the banks, shores and wharves of any stream within the corporate limits; and to construct all necessary wharves and landings for steamboats and other vessels where such town is situated on the bank of a navigable stream, lake or water course. Such trustees may also purchase and hold real estate situated within or without the corporate limits of the town, to be used as a public park. And the board shall have power to levy taxes or issue bonds to defray the expenses of purchasing or improving such park, to an amount not exceeding two per centum of the taxable value of the property of such town. If such bonds be issued they shall not be sold for less than par value and the rate of interest thereon shall not exceed six per cent. per annum, payable annually or semi-annually. The board shall provide annually for the payment of the interest on such bonds and for the liquidation thereof by such tax levy therefor as may be necessary to meet such interest and principal from year to year until all such bonds are paid. And such board shall have complete jurisdiction over such park and may make all needful rules and regulations for its management and control.

Eighteenth. To levy and have collected annual taxes, not exceeding fifty cents on the hundred dollars valuation, on all property subject by law to taxation, and twenty-five cents poll tax; also a tax not exceeding one dollar on each male dog and two dollars on each female dog, to be paid by the owner thereof. Such board shall, in addition, have power to levy and have collected annual taxes, not exceeding thirty cents on the hundred dollars valuation, on all property subject by law to taxation, for the support of town schools.

Nineteenth. To erect or provide such school houses as may be necessary for the use of the schools of the town, to complete school houses in process of erection and provide for the payment of the cost of the same, to keep all such school houses in repair and to provide fuel and other necessaries therefor.

Twentieth. To make and establish such by-laws, ordinances and regulations, not repugnant to the laws of this state, as may be necessary to carry into effect the provisions of this act, and to repeal, alter or amend the same as they shall seem to require; but every by-law, ordinance or regulation imposing a penalty for

its violation shall, except in case of emergency to be declared therein, be published in a newspaper in such town, if one be printed therein, or be posted in one public place in each ward of such town, at least ten days before the same shall take effect.

Twenty-first. To enact fines, penalties and forfeitures for violations of this act, or of any by-laws or ordinances of the town, not exceeding ten dollars for any one offense, which may be recovered in an action in the name of the corporation: *Provided*, That the fine assessed for the violation of any ordinance requiring a license may be a sum equal to the amount required by the ordinance to be paid for such license.

PROSECUTIONS UNDER ORDINANCES.

Ordinances—Prosecutions—Imprisonment.

SEC. 32. Any person violating the provisions of any town ordinance, to which there is a penalty affixed, may be prosecuted in the name of the town before a justice of the peace having his office within such town, or before the circuit court of the county, and in case there be no acting justice of the peace within such town, then before any justice of the peace in the county in which the town is situated, upon a warrant issued by such justice, as in case of misdemeanors; and such person, on conviction, shall stand committed until the judgment and costs are paid or replevied, and, in default of payment or replevy of such judgment and costs, the defendant, unless a woman, may be adjudged and required to pay the same by manual labor upon the streets or other public works, of such town, for which labor such defendant shall be credited on such judgment and costs one dollar per day. It shall be the duty of the marshal, or other such officer as the board of trustees may direct, to cause such defendant to work not less than six nor more than ten hours per day, according to the season, and each evening to return him to the custody of the keeper of the prison to which such defendant was committed. Upon payment, as aforesaid, of such judgment and costs, such defendant shall be discharged. Such marshal is hereby authorized and required to perform all the duties herein prescribed, and to use all proper means thereto; and the board of trustees is vested with full authority to pass by-laws and ordinances for compelling the enforcement of such manual labor by such defendant. Such defendant may be committed to the town prison, or if there be none, then to the county jail or workhouse of the county in which such town is situated; and in the latter case, it shall be the duty of the person having charge of the jail or workhouse to receive such defendant and obey the judgment of the court in reference to him. For the keeping and board of such defendant the sheriff or keeper of such jail or workhouse shall receive

such compensation as is allowed for the keeping and board of other prisoners, to be paid by such town on the presentation of an itemized account therefor; but one commitment and one discharging fee shall be charged, and the defendant may at any time replevy and pay such judgment and costs, receiving credit for any labor performed as aforesaid.

Prosecutions—Authority.

SEC. 33. Whenever any suit shall be instituted by an incorporated town, such town shall not be required to show its compliance with the provisions of this act as to its organization or as to the publication of its by-laws or ordinances, unless the same be controverted by affidavit; and in charging the violation of any ordinance, it shall be necessary to state only the title of the ordinance, the date of its passage, and the number of the section or sections violated.

REVENUES AND APPROPRIATIONS.

Money—How Appropriated.

SEC. 34. All moneys, however derived, belonging to such corporation shall be appropriated only for such objects and the defraying of such expenses as accrue, or necessarily arise, in the exercise of powers granted by this act. No appropriation shall be made without an order to that effect entered upon a proper book, to be kept for that purpose by the board.

Bonds for Public Buildings.

SEC. 35. Any incorporated town in this state, having begun or desiring to begin the erection of any public building to be used as a market-place, engine-house, school-house, or for any other public purpose, and not having the means necessary to complete such work may, by an ordinance passed by a two-thirds vote of all the trustees, at a special meeting called for that purpose, of which meeting notice shall be given for two weeks, by publication in a newspaper, if one be published in such town, and, if not, by posting in at least one public place in each ward, issue the bonds of the town to an amount not exceeding ten thousand dollars, to bear not to exceed six per cent. interest per annum, payable annually or semi-annually, and to be sold at not less than the par value. The proceeds of such sale shall be used exclusively for the erection and completion of such public work. The board shall provide annually for the payment of the interest on such bonds and for the liquidation of the principal, by such tax levy therefor as may be necessary to meet such interest and principal from year to year until all such bonds are paid.

Borrowing Money—Sinking Fund.

SEC. 36. No town shall have power to borrow money or incur any debt or liability, other than such as are authorized by this act, unless a majority of the resident owners of the taxable real estate of such town shall petition the board of trustees to contract such debt, or make such loan, stating the purpose and amount thereof. Such petition shall have attached thereto an affidavit verifying the genuineness of the signatures to the same. Upon being satisfied that the above provisions have been complied with the board shall have power to incur such debt. And for any obligation created in pursuance of such petition the trustees shall add to the tax levy of each year successively a sufficient amount to pay the annual interest on the debt or loan, and also a levy of not less than five cents on the hundred dollars to create a sinking fund for the liquidation of the principal thereof.

ASSESSMENT AND COLLECTION OF TAXES.

Taxes—How Fixed and Collected.

SEC. 37. The assessment of real and personal property in every town, as made and returned by the township and county assessors to the county auditor, and as modified and fixed by the county board of review and the state board of tax commissioners, with assessments of omitted property by county officers, as provided by law, shall constitute the assessment of such property for town purposes, in like manner as for state, county and township taxes; and all general laws of the state for the uniform assessment and collection of taxes, and matters connected therewith or growing out of the same, shall apply to towns, so far as the same shall be applicable, unless otherwise expressly provided. The county auditor of each county, as soon as the final yearly assessment of the property of any town in such county has been returned to his office, shall immediately certify the total amount of such assessment to the town clerk, who shall lay the same before the board of trustees at its next meeting thereafter. Such board of trustees shall thereupon, by ordinance, fix the tax levy for the current year for all town purposes. A certified copy of such ordinance shall thereupon be by the clerk of such town filed with the county auditor; and such auditor shall enter such taxes on the tax duplicate against all the property and polls subject to taxation within the corporate limits of such town. The treasurer of such county shall collect such municipal taxes upon such duplicate as other taxes thereon are collected, and pay the same over when collected to the treasurer of such town. Such town taxes may be paid in installments on or before the first Monday in May and the first Monday in Novem-

ber, in like manner as taxes for state, county and township purposes are payable, and shall become delinquent in like manner and be subject to the same penalties upon nonpayment as other taxes; and all provisions of law concerning the collection of state, county and township taxes by county officers, including tax sales, and redemption therefrom, and compensation of officers, shall apply to the collection of town taxes by county officers under the provisions of this section. No township assessor, county auditor, county treasurer or other county officer, or any deputy of any such officer, shall receive for their respective services in the assessment, levy, collection or disbursement of town taxes, or other revenues of any town, any fees or other compensation, save only the salaries and fees, if any, provided for them by law as such township or county officers. Where a town has been or may hereafter be incorporated more than one year prior to the time fixed by law for the assessment of real estate for the purposes of taxation, it shall be the duty of the assessor of the township, or assessors of the townships, in which such town is situated to assess all of the real estate in such town in the manner provided by law for the assessment of real estate at the regular times fixed by law for such assessment. Such assessment of real estate and the return thereof to the county auditor shall be made by the assessor at the time he makes assessment and return of personal property; and all the provisions of law for the assessment of real estate shall be observed in the making, reviewing and entry of such assessment and the collection of taxes levied thereon. To enable the assessor to make such assessment and return, the auditor of the county, or auditors of the counties, in which such town is situated shall, on or before the first day of March succeeding the incorporation of such town, upon written request of the board of trustees, make out and deliver to the proper township assessor a list of all the lands and lots within the corporate limits of such town, together with the names of the owners of each separate tract, parcel or lot as shown by the records in the office of such auditor.

II. CITIES.

ORGANIZATION.

Petition—Census.

SEC. 38. Whenever one-third of the voters of any incorporated town, so far as the number can be estimated, shall petition the board of trustees thereof to be incorporated as a city under this act, such board of trustees, by an order or resolution to that effect entered on its record, shall furnish the marshal or other proper officer with the necessary forms for taking, and direct him

to take, a census of all persons who are residents within the corporate limits of such town at least forty days previous to the date of such order or resolution: *Provided, however,* That if it shall appear to such board of trustees by the last census of this state or of the United States, or by any enumeration made by the order of such board of trustees, within two years after the filing of such petition, that such town then has two thousand five hundred inhabitants, such board of trustees shall be at liberty to proceed in all respects as if such census had been taken in the manner provided by this act. Such marshal or other officer, with the concurrence of such board may appoint assistants, and shall, within thirty days from the time of receiving such order, make full return, under oath, to such board of the resident population of such town. If the return show a population of two thousand persons or more, the trustees, within ten days thereafter, shall publish a notice to the voters, as in case of other town elections, stating that, on a day named, an election will be held in the several precincts of the town, to determine whether the same shall be incorporated as a city. In towns which are governed by a common council, instead of a board of trustees, the duties in this act required to be done by the board of town trustees shall be performed by such common council.

Election Board—Duties—Ballots—Returns.

Sec. 39. The board of trustees shall appoint three reputable voters in each precinct, one to act as inspector and two as judges of the election provided for in the preceding section; and the persons thus appointed shall choose a clerk of such election. Such election shall be conducted in the same manner and be governed by the same rules as other town elections. The ballots of the voters shall have thereon the word "Yes" and the word "No." The inspector and judges of each precinct shall make a statement showing the number of affirmative votes given and the number of negative votes given; and, on the day succeeding such election, at the hour of ten o'clock in the forenoon, the inspectors shall meet and canvass the vote, as in other cases. If a majority of the ballots be in the negative the inspectors shall so report to the board of trustees, and the voters of such town or city shall be deemed not to have consented to its incorporation as a city, and no further proceedings shall be had in relation thereto. But if a majority of such ballots shall be in the affirmative, the inspectors shall, within five days, certify that fact to the clerk of the circuit court of the county in which such town is located, showing also in their return the number of votes in the affirmative and the number in the negative. The clerk of such court shall make a record of such return of such election in the civil order book of such court; and such town shall thereafter be deemed an incorporated city, with the powers and franchises ap-

pertaining thereto; and the record in the office of such clerk of the circuit court shall be held in all courts and places as conclusive evidence of such incorporation. But nothing herein shall prevent any person interested from contesting the validity of such election, and of the result thereof, as in other cases of contested elections.

Town Becomes City—Wards—Terms of Officers.

SEC. 40. Within five days after the filing in the office of the clerk of the circuit court of the statement showing that any town has been incorporated as a city, the trustees of such town shall divide such city into not less than three wards, none of which shall contain less than three hundred inhabitants; and shall, within the same time, cause to be given to the voters of such city ten days' notice, by publication in one or more newspapers printed in such city, if any there be, and, if not, in a paper published in the county in which such city is situated, and by posting copies of such notice in three public places in each ward of such city, that an election will be held in each of such wards on a day and at the places in such notice stated for the election of the city officers therein named. The officers elected at such election shall serve until twelve o'clock, noon, of the first Monday in January following the next regular city election thereafter. The common council of any city of this state shall have power to redistrict such city into three or more wards, whenever in the judgment of such council it is expedient to do so, such wards to contain, as nearly as possible, an equal number of inhabitants and to be composed of compact and contiguous territory: *Provided,* That the wards of each city shall remain in number and boundaries the same as now existing until the year 1907; and thereafter no readjustment or fixing of the boundaries of the wards of any city shall occur oftener than once in a period of six years, unless the same be made necessary by the annexation of new territory, in which case such readjustment of wards and boundaries, whenever made, shall be done by ordinance, passed by a two-thirds vote of all the members of the common council; and no such ordinance for change in wards shall be passed before notice first given by publication for three successive weeks, once each week, the last of which publications shall be at least thirty days before any city election, in a newspaper of general circulation printed in such city, in which notice the proposed numbers and boundaries of the wards shall be plainly stated and described.

Application of Act—Rights—Liabilities.

SEC. 41. This act shall be in force in all cities which heretofore have been organized and acting as such under laws of this state, without any acceptance or other proceeding on the part of any such city. But any such city shall be, and continue to be,

the same legal corporation as heretofore, and no rights acquired or liabilities incurred in favor of or against any such city shall be affected by this act, except as in this act itself expressly provided, but all such rights and liabilities shall remain in full effect as if this act had not been passed; and all property, real and personal, and of every kind whatsoever, belonging to any town or city before the passage of this act shall be and remain the property of such town or city. Officers of any such city so coming under the provisions of this act shall continue in their respective offices, subject to such provisions, and shall, under the oaths of office already taken and under the official bonds already given, continue to perform the duties in this act required, until their successors are chosen and qualified. All by-laws, ordinances and regulations, not inconsistent with this act, shall remain in full force until altered or repealed by the common council of such city.

CLASSIFICATION OF CITIES.

Five Classes—Population.

SEC. 42. All cities of this state are hereby devided into five classes, as follows:

1. Cities having a population of one hundred thousand or over, according to the last preceding United States census, shall be denominated cities of the first class.

2. Cities having a population of forty-five thousand or over and less than one hundred thousand, according to the last preceding United States census, shall be denominated cities of the second class.

3. Cities having a population of twenty thousand or over and less than forty-five thousand, according to the last preceding United States census, shall be denominated cities of the third class.

4. Cities having a population of ten thousand or over and less than twenty thousand, according to the last preceding United States census, shall be denominated cities of the fourth class.

5. Cities having a population of less than ten thousand, according to the last preceding United States census, shall be denominated cities of the fifth class.

ELECTIVE OFFICERS.

Officers—Terms—Jurisdiction—Successors.

SEC. 43. The elective officers of the cities of this state shall consist of a mayor, a city judge, a city clerk, a city treasurer, and councilmen as hereinafter provided: Except, however, first, that,

in every city of the first, second or third class, which is the county seat of the county in which such city is located, the county treasurer of such county shall perform all the duties of city treasurer; and, second, that, in cities of the fifth class, the powers and duties of city judge shall devolve wholly upon the mayor. On the first Tuesday after the first Monday in November, in the year 1905, and on the same day every four years thereafter, there shall be held a city election in every city of this state for the election of the elective officers of such city, and there shall be no election in any city prior to that date, except the first city election in case of the organization of a city, as provided in section forty of this act. At such general election there shall be elected, in every city, a mayor and a city clerk; in cities of the first, second, third and fourth classes, there shall likewise be elected a city judge; and in every city of the first, second or third class, which is not a county seat, and in every city of the fourth and fifth classes, there shall be elected a city treasurer. At such election there shall also be elected, in each ward, one councilman; and the whole city shall elect, at large, half as many additional councilmen, not counting fractions, as there are wards in such city: *Provided,* That in no case shall the number of councilmen at large in any city be more than six nor less than two. The officers elected on the first Tuesday after the first Monday in November, 1905, shall hold their respective offices from the termination of the terms of their respective predecessors until the hour of 12 o'clock noon of the first Monday in January, 1910; and they shall be ineligible to be re-elected, respectively, to the same offices at the election to be held on the first Tuesday after the first Monday in November, 1909. Thereafter all elective city officers shall serve for four years from the hour of twelve o'clock, at noon, on the first Monday of January following their election; and, except in case of councilmen, shall continue to serve until their successors are elected and qualified. No person shall be eligible to any city office unless he shall have been a resident of such city for at least one year, immediately preceding his election, nor shall any person be eligible to the office of councilman to represent any ward unless for the last six months of his residence in such city he shall have been a resident of such ward; and should any city officer cease to be a resident of such city, or any councilman representing any ward cease to be a resident of such ward, during his term of office such office shall thereby at once become vacant. No person elected under the provisions of this act shall be eligible to hold the same elective office more than four years in any period of eight years. All city elections shall be held, and returns thereof made, certificates issued and contests had, in conformity with the general election laws of this

state: *Provided,* That the board of canvassers of any such election shall assemble at the council chamber of the city to determine the vote and announce the result on the day following the election, at ten o'clock in the forenoon of such day. Prior and up to the first Monday of January, 1906, the respective officers of all cities in this state elected or appointed under laws heretofore in force, shall continue to serve as such officers under the provisions of this act, so far as applicable: *Provided,* That any such officer required to give a bond by any former law shall at the taking effect of this act give such bond for the period expiring at such date, in such sum, and to be approved, as required by such former law. All laws now in force for the government of such cities, where the same are not in conflict with the provisions of this act, shall continue in force until said date; and all ordinances, rules and regulations of any such city, duly passed and adopted under such former laws, except as herein provided, and if not in conflict with the provisions of this act, shall continue in full force and effect until repealed or abolished. In case any city, prior to the election and qualification of the officers of such city under the terms of this act, shall have commenced any proceedings or undertakings of a public nature which shall have been lawfully commenced or undertaken, the same shall not be interrupted by the passage of this act, but shall be taken up and carried forward by the proper officer or department as prescribed in this act; except that in case of public improvements of any kind, whether of sewers, streets, alleys, levees, parks, public buildings, or any other matter of an executive nature, in which a contract has not, prior to the taking effect of this act, been actually let and entered into, the executive department having charge of such matter shall not be bound, unless it so elects, by the previous proceedings, but may review the whole subject and modify, change or rescind all orders previously made in that behalf. In all cities of the state where by law heretofore in force an election for such elective city officers would occur prior to the election in November, 1905, hereinbefore provided for, such prior elections shall not be held and the present officers of such cities shall continue in office until 12 o'clock, at noon, on the first Monday in January, 1906, at which time the terms of such officers shall cease and terminate and the terms of the officers elected under the provisions of this act shall begin.

Officers—Qualification—Bond.

SEC. 44. After the execution of the certificate of election of any city officer by the board of canvassers, the city clerk shall forthwith give notice to every person so elected of his election and of the time when he must qualify, either by personal service or by

leaving a copy at his usual place of residence; and such clerk shall make return of such service and file the same in his office. Every officer of any such city, before entering upon the duties of his office shall take and subscribe an oath, to be indorsed on his certificate of election, and every appointive officer shall likewise take such oath, to be indorsed on his certificate of appointment, before the city clerk or some officer authorized to administer oaths, that he will support the constitution of the United States and the constitution of the State of Indiana, and that he will faithfully discharge all his official duties; which oath shall also be filed with the city clerk. Every city officer of any city, except the mayor and the members of the common council, shall likewise execute a bond, to the approval of the mayor, payable to such city, in such penal sum as the common council of such city may enact by ordinance covering such cases, conditioned for the faithful performance of the duties of his office and for the payment to the proper person of moneys received by him as such officer: *Provided,* That in no case shall the bond of the treasurer, or county treasurer performing the duties of treasurer, be fixed in a less sum than one-half of the estimated amount of all taxes, including delinquent, to be levied for municipal purposes and collected in such city for the current year. Such bond shall be filed with the city controller, except in cities of the fifth class, in which it shall be filed with the city clerk. Any person who shall not file his oath, or oath and bond, as the case may be, with the proper officer within ten days after the beginning of the term for which he shall have been elected or appointed, shall be deemed to have refused to serve, and the office shall be deemed to be vacant.

Vacancy in Elective Office.

SEC. 45. In the event of a vacancy occurring in an elective office of any city, except the office of mayor or councilman, by reason of death, resignation or other cause, or in case of the disability of any such officer to perform the duties of his office, it shall be the duty of the mayor, or acting mayor, to fill such vacancy by appointment for the unexpired term, subject to the approval of the common council. In case of a vacancy in the office of mayor, from death, resignation or other cause, or in case of disability on the part of the mayor to perform the duties of his office, the city controller, in all cities having such office of controller, shall act as mayor: *Provided,* That such officer while acting as mayor shall not perform any duties as controller, but shall appoint a suitable person to act as controller during such time. In the event of the death, resignation or disability of the city controller, as also in all cities not having a city controller, the city clerk shall act as mayor during any vacancy in the office of mayor caused as afore-

said, subject to like conditions as when such vacancy is filled by the city controller. Should there be no person, as herein provided, to fill a vacancy in the office of mayor, the common council shall designate one of its members to act as mayor pro tempore, until a special meeting of the council, to be held not less than ten days nor more than fifteen days thereafter, at which special meeting the council shall elect a suitable person to fill out the unexpired term of mayor. Notice of such special meeting shall be given by the city clerk by publication once in a newspaper of general circulation printed in such city. In case of a vacancy in the office of councilman, from death, resignation or other cause, the common council shall fill such vacancy at a special meeting, to be held at a time not less than ten nor more than fifteen days after such vacancy is discovered by such council; of which special meeting notice shall be given by the clerk as herein required when the council is to fill a vacancy in the office of mayor. All persons so filling vacancies in elective city offices shall hold only during the unexpired term of any such office, and shall during such incumbency be entitled to the salary attached thereto.

City Contracts—Interest in Forbidden.

SEC. 46. No member of the common council, nor any officer, clerk or deputy of such officer, or other employe of any city of this state, shall, either directly or indirectly, be a party to or in any manner interested in any contract or agreement, either with such city, or with any officer, board, clerk, deputy or employe of such city, for any matter, cause or thing by which any liability or indebtedness is in any way or manner created or passed upon, authorized or approved by such council or by any member thereof, or by any officer, board, clerk, deputy or employe of such city. No officer, employe, agent or servant of any corporation, firm, company or person holding or operating under a franchise granted by any city, or having any contract with such city, shall be eligible to any office in such city; and any officer of any city accepting any office in or employment by any such corporation, firm, company or persons holding or operating under any such franchise or having any such contract, or seeking to acquire any such franchise or contract, shall thereby vacate such city office. Any contract in contravention of the foregoing provisions shall be absolutely void; and any person violating any of such provisions shall be fined not more than one thousand dollars and imprisoned in the state prison not less than one year nor more than ten years. No councilmen or other officer, clerk, deputy or employe of any city shall, either directly or indirectly, purchase any bond, order, claim or demand whatsoever against such city, during his continuance in office or employment, for any sum less than the amount specified therein;

and any bond, order, claim or demand so purchased by any such officer or other person in contravention of the foregoing provision, shall be forfeited to such city, and no action shall ever be maintained thereon. Gifts and the acquirement of equitable interests by any such officers in any such bonds, orders, claims or demands shall be deemed to be within the meaning and scope of the foregoing provisions.

ORGANIZATION AND PROCEDURE OF THE COMMON COUNCIL

Common Council.

SEC. 47. The legislative authority of every city shall be vested in a common council.

Meetings.

SEC. 48. The members-elect of the common council of every city shall hold their first regular meeting on the first Monday in January after their election, at the hour of 7:30 P. M., in the council chamber. The council shall thereafter meet at least once a month, and as much oftener as the rules may require. Special meetings shall be held on the call of the mayor, or on such other call as may be provided for by the rules. A majority of all the members-elect shall constitute a quorum. It shall require a majority vote of all the members-elect to pass an ordinance. Whenever, in this act, it is required that any ordinance or resolution shall be passed, or other action of the council taken, by a two-thirds vote, such requirement shall be construed to mean a two-thirds vote of all the members-elect. All meetings of the common council shall be public.

Presiding Officer.

SEC. 49. In cities of the third, fourth and fifth classes, it shall be the duty of the mayor to preside at all meetings of the common council; and while so presiding he shall have a casting vote in case of a tie, but not otherwise; and in his absence, for any cause, the council shall choose a presiding officer pro tempore from its members. In cities of the first and second classes, the common council, at its first meeting, shall choose from its members a presiding officer, and also a presiding officer pro tempore, who shall serve until noon of the first Monday in January of the next succeeding year, when their successors shall be chosen to serve for one year in like manner.

Clerk of Council—Duties.

SEC. 50. The city clerk shall be the clerk of the common council. It shall be his duty, as such clerk of the council, to keep the

files and papers thereof, to make and keep an accurate minute and journal of the proceedings, to enter the ayes and noes on the passage of every ordinance and resolution, and on all other votes whenever requested by two members, and to perform all other duties required by such office.

Expulsion of Member.

SEC. 51. The council shall have the power to expel any of its own members for violation of official duty, and to declare the seat of any member vacant by reason of his disability to perform the duties of his office. The council may adopt its own rules to govern in such cases; but a two-thirds vote shall be required to expel a member or vacate his seat under this section.

Legislative Power—Appropriations.

Sec. 52. The common council of every city shall have power to pass all ordinances, orders, resolutions and motions for the government of such city, for the control of its property and finances and for the appropriation of money. No appropriation shall be made for the payment of money otherwise than by ordinance, specifying by items the amount thereof and the department for which the appropriation is made. The council may prescribe by ordinance its own rules. No ordinance, order or resolution of the council shall become a law, or operative until it has been signed by the presiding officer thereof, and approved in writing by the mayor, or passed over his veto, as hereinafter provided, and, whenever necessary, promulgated according to law. No ordinance shall be passed on the same day, or at the same meeting, that it is introduced, except by unanimous consent, and then only in case there are present and voting at least two-thirds of all the members-elect of the council. Every ordinance imposing a penalty or forfeiture for the violation thereof shall, before the same shall take effect, be published, once each week, for two consecutive weeks, in a newspaper of general circulation printed in such city: *Provided,* That in case of insurrection, riot, pestilence, conflagration or in other case of urgent necessity requiring the immediate operation of any such ordinance, it shall take effect as soon as proclamation is made thereof by the mayor, and copies are posted in three public places in each of the wards of the city: *Provided, further,* That whenever any city shall publish any of its ordinances in book or pamphlet form such publication shall be of itself sufficient and such ordinance or ordinances shall be in force in two weeks from the date of publication of such book or pamphlet. Any such publication of the ordinances of a city in book or pamphlet form, if the same shall purport to be printed under the authority of the common council of such city, shall

be presumptive evidence, in all courts and places, of the ordinances therein contained and of the date of their passage, and that the same are properly signed, attested, recorded and approved. Every ordinance, order or resolution of the common council shall, immediately upon its passage, enrollment, attestation and signature by the clerk and presiding officer, be presented by the city clerk to the mayor, and a record of the time of such presentation made by the clerk. If the mayor approve such ordinance, order or resolution, he shall enter his approval thereon and sign the same, and the ordinance, order or resolution shall become a law. If he do not approve the ordinance, order or resolution he shall return it to the clerk, with his objections in writing, within ten days after receiving it and the clerk shall present the same to the common council at its next meeting. If the mayor fail to discharge his duty by approving or disapproving such ordinance, order or resolution within the time named, such failure shall be deemed a disapproval; and in all cases of disapproval by the mayor such ordinance, order or resolution shall not become a law, unless at its next regular or special meeting after the time named for the mayor's action, the council shall again pass the same by a two-thirds vote of all the members-elect. All ordinances shall, within a reasonable time after their approval by the mayor or their passage over his veto, be recorded in a book kept for that purpose by the city clerk. Such record shall include the signature of the presiding officer, the attestation of the clerk and the mayor's written approval or disapproval, and in the latter case, a memorandum of the passage of the ordinance over the veto, with the date of each of such acts. Such record, or a certified copy thereof, shall be presumptive evidence of the passage and going into effect of such ordinance.

GENERAL POWERS OF THE COMMON COUNCIL.

Common Council—General Powers.

SEC. 53. The common council of every city shall have power to enact ordinances for the following purposes:

First. To provide a corporate seal, with appropriate device, for such city, to be affixed to all instruments or writings needing authentication.

Second. To fix the salaries or compensation of the various officers and employes of such city, except where a different provision is made in this act: *Provided,* That in cities of the first and second classes, no member of the common council shall be allowed more than two hundred dollars; in cities of the third and fourth classes, more than one hundred and fifty dollars; and, in cities of the fifth class, more than one hundred dollars for each year of his

service. No salary or compensation, of any city officer so fixed shall be changed after his election or appointment during the term of his office.

Third. To protect all city property.

Fourth. To provide for the punishment of contempt and disorder in the rooms of the council.

Fifth. To authorize a census of the city.

Sixth. To receive gifts, donations, bequests and public trusts and to agree to conditions and terms accompanying the same and bind the corporation to carry them out.

Seventh. To declare what shall constitute a nuisance, to prevent the same, require its abatement, authorize the removal of the same by the proper officers, and provide for the punishment of the person or persons causing or suffering the same, and to assess the expenses of its removal against such person or persons, and to provide for collecting such expenses either by causing them to be placed on the tax duplicate or by suit.

Eighth. To regulate or prohibit the use of hand-organs or other annoying instruments of any character, or other music of itinerant performers, in the streets, alleys or public places of the city.

Ninth. To authorize the cleansing and purification of water and water courses by the board of public works, or other designated authority; to prevent encroachment or injury to the banks of streams, or the casting into the same of offal, dead animals, logs, rubbish, dirt or impure liquids. For the purpose of this clause, jurisdiction is hereby conferred upon cities for ten miles from the corporate limits thereof.

Tenth. To regulate the location and management of starch factories, glue factories, renderies, tallow chandleries, bone factories, soap factories, tanneries, foundries, slaughterhouses, breweries, distilleries, livery stables, and all other establishment of which the business or trade may become noxious or injurious to public comfort or health; and to prohibit the erection of such buildings or the continuance therein of such noxious or injurious occupations whenever the public comfort or health may require it. For the purpose of this clause such city is given jurisdiction for four miles from the corporate limits thereof.

Eleventh. To prevent or regulate the use of fire-arms, fireworks, bonfires or other things or practices tending to endanger persons or property.

Twelfth. To regulate and prohibit the running at large of fowls or animals of any kind; and to authorize the impounding, keeping, sale and redemption of the same when found in violation of the ordinances in relation thereto.

Thirteenth. To prevent the deposit of any unwholesome substance, either on private or public property, and compel its removal to designated points; and to require slops, garbage, ashes and other waste or unwholesome materials to be removed to designated points, or to require occupants of premises to place them conveniently for removal; also to provide for the destruction of such substances, or their use for some beneficial purpose. For the purposes of this clause, jurisdiction is given such city four miles from the corporate limits thereof.

Fourteenth. To compel the occupants of any premises, buildings or outhouses, when the same have become filthy or unwholesome, to abate or cleanse the same, and to authorize such cleansing to be done by the proper public officers and to assess the expense thereof, against, and collect such expense from, the occupant or owner, or to impose a lien on such property for such expense and place the same on the tax duplicate for collection or to collect the same by foreclosure of such lien. For the purposes of this clause such city is given jurisdiction for four miles beyond the corporate limits thereof.

Fifteenth. To regulate or prevent the storage of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, hay, straw, cotton, nitroglycerine, dynamite, giant powder, petroleum, gasoline, gas or any product thereof, or any other explosive or combustible material or other material which may be deemed dangerous.

Sixteenth. To regulate the location and management of cemeteries or burial places, within or without such city, and to protect the same and provide for the sanctity of the dead; to regulate or prohibit the interment of bodies; and to authorize the removal of bodies now or hereafter buried, or of cemeteries, to some other proper place. For these purposes such city shall have jurisdiction for four miles from the city limits.

Seventeenth. To establish quarantine regulations, and to authorize the removal or confinement of persons having infectious or contagious diseases. For the purposes of this clause jurisdiction is given such city for four miles from the corporate limits thereof.

Eighteenth. To regulate and require reports and records of births and deaths, and to make such requirements as may be deemed necessary to prevent the spread of contagious or infections diseases; and to make all regulations that may be deemed expedient for the promotion of health and the suppression of disease.

Nineteenth. To regulate or prohibit the ringing of bells, crying of goods or sounding of steam whistles.

Twentieth. To direct the location and regulate the management of all public markets and market places, whether estab-

lished by the city or by private individuals. To prevent the offenses of regrating and forestalling.

Twenty-first. To authorize and require the inspection, and condemnation, if unwholesome, and to regulate the sale of meat, poultry, fish, butter, oleomargarine, cheese, lard, vegetables and all other food or provisions.

Twenty-second. To regulate the selling, weighing and measuring of hay, wood, coal, coke and all other articles sold by weight or measure; to require dealers to keep honest weights and measures and to provide for inspection of such weights and measures.

Twenty-third. To authorize and require the inspection and licensing of steam boilers and elevators, and to prohibit their use when unsafe or dangerous or when used without license; and to license and regulate stationary engineers.

Twenty-fourth. To define fire limits in such city, and the character of buildings which are forbidden to be erected within such limits; to prohibit the erection of buildings in such city without a license first obtained therefor; to limit the height to which buildings may be erected in the city, or in any locality or on any street thereof; to regulate the construction of buildings, as to foundations, walls, roofs, doors, windows and floors, so as to secure safety in the structure and also so as to prevent the spread of fire; to authorize and require the inspection of buildings and structures erected or to be erected, or in the process of erection; to authorize the license for the erection of any building to be revoked, and the condemnation of such building or of any building already erected, in whole or in part, either by ordinance fixing the method of such condemnation, or by appropriate action in the name of such city, to be brought in any court of competent jurisdiction, whenever, in the opinion of the board of public works or other proper authority, such building is dangerous or insecure, or constructed in violation of the terms of any ordinance, and to require such building to be taken down within a specified time by the owner, or, in default thereof, to authorize the same to be taken down at the owner's expense, or, in case of emergency, to authorize the same to be taken down at such owner's expense by the board of public works or other proper authority, without delaying for the owner to do so.

Twenty-fifth. To compel persons about to undertake dangerous improvements to execute bonds, with sufficient surety, conditioned that the owner or contractor will pay all damages that may be sustained by any person from such work.

Twenty-sixth. To regulate the construction of chimneys, smoke-stacks, hearths and ovens, the erection of stoves and stove-pipes, boilers and apparatus used in buildings or other places, and cause the same to be removed and made secure when considered

dangerous; to authorize the chief of the fire force or his assistants, the mayor, members of the board of public safety or other designated officers or agents of any such city, at all reasonable hours, to enter into and examine all dwellings, outhouses, lots and yards in such city, and to inspect all places where fire is used or is liable to occur, and to take all necessary means to prevent danger therefrom; to compel owners and occupants of houses and other buildings to make scuttles in the roofs thereof; with stairs or ladders reaching to the same, and to compel the erection of fire escapes. Also to require and regulate the use of smoke consumers.

Twenty-seventh. To authorize and require the inspection of gas pipes, water pipes, plumbing, drainage, sewers and electric lines or wires, on private property or elsewhere; and to compel them to be repaired or made secure by the owners or occupants of the buildings with which they are connected, and, on failure of any such owner or occupant so to do, to authorize or require the gas or electric current and other connections to be shut off until such repairs are made; and to authorize the appointment of inspectors to compel compliance with such requirements.

Twenty-eighth. To regulate or prohibit the keeping of any lumber yard and the placing or piling of any lumber, wood, straw, hay or other combustible material within the fire limits of the city or at any other place, or in such quantities as to become dangerous to persons or property.

Twenty-ninth. To establish and maintain a wharf or wharves, control and regulate the same, to fix the rates of wharfage and enforce the collection of the same, to regulate the landing of boats and watercraft, and the loading or unloading thereof, and to prohibit or regulate the dumping of material upon the bank of or in any river, and to prevent the obstruction of any stream; also to authorize the mayor to appoint a wharf master, to serve during the pleasure of the mayor, and to fix the bond and salary of such wharf master and define his duties.

Thirtieth. To require the owners of real estate to cut and remove weeds and other rank vegetation growing thereon; and, on default of such owners to do such work, to cause the same to be done by the city and make the cost thereof a lien on such real estate and provide for the enforcement of such lien and the collection of such cost.

Thirty-first. To prevent immoderate and careless riding or driving. To regulate the use of streets and alleys by vehicles, and to designate the kind of conveyance and vehicles that may not be used on certain named streets that have been improved, and designate hours for the use of such streets by certain specified classes of vehicles. To prevent the encumbering of streets, alleys, squares,

sidewalks and crossings with buildings, fences or other structures, vehicles, horses or any substance or material whatever interfering with the free use of the same, and to compel the removal of any such obstructions. To regulate the speed of horses, wheeled and other vehicles, cars and locomotives. To regulate and protect all bridges, culverts, tunnels, viaducts, aqueducts, sewers, canals and hydrants, wholly or partly in such city; and to prohibit digging in such streets, alleys or public places, or in any way injuring, disturbing or making holes in the surface thereof. To regulate the use of sidewalks and prohibit the use of vehicles thereon, and regulate all structures in, under or over the same; and to require the owner or occupant of premises to keep the sidewalks in front of the same free from snow and other obstructions, and to prescribe hours for cleaning the same. To regulate and prevent the throwing or depositing of sweepings, dust, ashes, offal, dirt, garbage, paper, hand bills, slops, liquids or any other materials into any streets, alleys or public places. To regulate and prevent the use of streets, sidewalks and public places for signs, sign posts, awnings, posts, poles, horse troughs, scales, steps, railings, entrances or racks; or for posting hand bills and advertisements; or for the placing or piling of goods boxes or other materials, or the display of goods, wares and merchandise. To regulate and prohibit the exhibition or carrying of banners, placards, advertisements or hand bills on the streets, alleys, or public places. To regulate and prevent the flying of flags, banners or signs across the streets, or from houses or other buildings. To regulate the numbering of houses and lots, and to compel the owners to renumber the same, or, in default thereof, to authorize and require the same to be done by the board of public works or other proper authority at the owner's expense, such expense to constitute a lien upon the property which shall be enforcible as may be provided by ordinance. To name or change the name of any street or park. To regulate the making of private connections with sewer, gas, water and other like pipes and public conveniences, and to compel owners of property to bring such connections inside the curbs of streets before the permanent improvement thereof; and, on default of the owner's making such connections, to authorize the proper city officials to do so at the owner's expense, and to make such expense a lien on the property, collectible in the same manner as expenses for other street and sewer improvements; and to authorize the appointment and fix the compensation of a street commissioner or other necessary officers and assistants to keep all streets and alleys clean and free from obstructions to public travel, such street commissioner and other officers in cities of the first, second, third and fourth classes to be appointed by and subject to the direction of the board of public works, and, in cities of

the fifth class, to be appointed by the mayor and be subject to the orders of the common council.

Thirty-second. To regulate, tax and license coaches, hacks, drays, automobiles and all other vehicles.

Thirty-third. To regulate, license, tax, restrain or prohibit theatrical and all other exhibitions, shows or entertainments.

Thirty-fourth. To license, tax, regulate or prohibit runners at railroad stations and stations for boats, cars, stages, and other means of transportation, or at public houses or other public places.

Thirty-fifth. To regulate the sale of all kinds of property at auction, in the streets, stores, shops or elsewhere in the city, and to license auctioneers.

Thirty-sixth. To license and regulate the supply, distribution and consumption of artificial and natural gas, electricity, heat and water, and to fix by contract or franchise, the prices thereof, and to regulate the laying of mains and pipes and stringing of wires, and designate the streets and alleys through which the same shall be laid and maintained; and to compel the performance of contracts for the extension of such mains, pipes and electric lines and the supply of gas, heat, water and electricity upon any street.

Thirty-seventh. To license, tax, regulate, suppress and prohibit hawkers and itinerant dealers, peddlers and pawnbrokers, and to revoke any such license.

Thirty-eighth. To license, tax and regulate public hackmen, draymen, omnibus drivers, carters, cabmen, porters, expressmen, bill posters and all other persons pursuing like occupations for pay or hire, and to prescribe their compensation, and revoke any license for violation of such ordinance.

Thirty-ninth. To license, tax and regulate or prohibit all inns, taverns, hotels, restaurants or other places used or kept for public entertainment.

Fortieth. To license, tax, regulate and restrain all shops, inns, taverns or other places where intoxicating liquors are kept for sale, to be used in and upon the premises; and, in regulating, restraining and licensing such inns, taverns, shops or places aforesaid, such common council shall have the power to designate the room, building or structure where such liquors may be sold, and may exclude such sales from the suburban or residence part of such city, and confine the places where such sales may be made to the business part of such city, and may define such suburban or residence and business parts of any such city; and may direct the arrangement and construction of the doors, windows and openings of the particular room in such building where such sales may be had, or such intoxicating liquors be drunk, and may direct the location, arrangement and construction of the bar kept therein,

and the interior arrangement and construction of such room, and may direct what games may be carried on therein, and may forbid the keeping or use of wine rooms. The charge for any such license shall be any sum not exceeding two hundred and fifty dollars for any one year. For the purposes of this clause jurisdiction is given cities of the first and second classes for four miles from their corporate limits, and to all other cities, for two miles beyond their corporate limits.

Forty-first. To license, tax and regulate distilleries and breweries, and the depots or agencies established in any such city by any distillery or brewery; but the charge for such license shall not exceed the sum of one thousand dollars a year for each distillery, brewery, depot or agency established in such city. For the purposes of this clause and the last preceding clause, jurisdiction is given such city for four miles from the city limits.

Forty-second. To regulate and license lumber yards, livery stables and public scales.

Forty-third. To tax, license and regulate second-hand and junk stores, and pawn brokers, and to forbid persons engaged in any such business from purchasing or receiving any article whatever from minors without the consent of their parents or guardians.

Forty-fourth. To license, tax, regulate and prohibit the keeping or harboring of dogs.

Forty-fifth. To license, tax, regulate and prohibit dairies and the keeping of milch cows.

Forty-sixth. To license, tax and regulate branch stores or establishments, and all other concerns established in such city for temporary business only; and to license, tax and regulate itinerant physicians and venders of medicine and other articles.

Forty-seventh. To preserve peace and good order, prevent vice and immorality, quell riots and disperse disorderly assemblages. To prevent cruelty to children or other persons and to animals. To suppress gaming and gaming houses, and places or houses of ill-fame and assignation, or houses kept for any immoral purpose. To prohibit gaming and to destroy any instruments or devices of gaming and to restrain fraudulent practices. To license, tax, regulate, restrain or prohibit all tables, alleys, machines, devices or places of any kind for sports or games. To regulate the time and place of and restrain or prohibit bathing in the rivers or public waters of the city. To direct the location and management of public bath houses, to license the same or to require the same to be closed if deemed expedient. To restrain and punish vagrants, mendicants, street beggars, common prostitutes and their associates, thieves, criminals and persons known or reputed to be such. For the purposes of this clause any such city is given jurisdiction for four miles from the limits thereof.

Forty-eighth. To keep rivers, streams and other waterways open, and prevent the waters thereof from becoming polluted; jurisdiction for both of which purposes is given for ten miles beyond the city limits. To establish and regulate ferries across any stream within the corporate limits of such city; and to license any person, persons, or corporation to keep such ferry or ferries and to exact a reasonable fee for such license, and to prescribe the kinds of boats to be used at such ferries, and the rates of ferriage to be charged; and to authorize any part of the bank of such stream used as a wharf or highway to be used for a ferry landing. To determine, survey and mark the lines and banks of the streams, rivers and other waterways passing through or bordering upon the corporate limits of such city, to provide for changes in their courses and to exercise the power of eminent domain, either within or without such city, for the purpose of securing new courses for such streams, rivers or other waterways. To provide in what manner and on what terms real estate in such city may be drained or sewered, by surface or under drains or sewers across other real estate within such city or within four miles thereof; and to provide the methods of assessing the benefits and damages thereby caused and collecting assessments on property to pay the costs of such improvement: *Provided, however,* That this clause shall not apply to public sewers or drains in streets, alleys or other public places.

Forty-ninth. To secure the safety of citizens and other persons in the running of trains or cars in and through any such city, whether propelled by steam, electricity or other motive power; to require persons or corporations owning or operating railroads to fence their respective roads and to construct cattle-guards and street crossings at the intersection of public roads and streets and to keep the same in repair and safe condition for persons on foot, in vehicles or otherwise; to require such persons and corporations to construct and maintain gates and keep flagmen at railroad crossings, and to provide protection against injury to persons or property from the operation of such railroads, trains or cars; to require any railroad company running a car, engine or train of cars over any street in the night time to maintain a street light at such crossings, to be lit at night during the passage of every train, engine or car and for not less than thirty minutes prior thereto: *Provided,* That such council shall have no authority to require such railroad company to maintain any different kind of light at such crossings from that maintained by the city at other street crossings. To authorize and require railroad, interurban or street car companies to change the location, grade and crossing of their respective railroads; to compel them to raise or lower their tracks so as to conform to any grade which

may be established by such city; to compel persons or corporations owning or operating railroads to construct and maintain bridges, viaducts or tunnels, and approaches thereto, across their respective railroads or rights of way at street or alley crossings or other places; to compel railroad, interurban and street car companies so to construct and maintain their tracks in the streets and at the crossings so as not to interfere with the drainage of streets and alleys; to require railroad, interurban or street car corporations or persons owning or operating such roads to keep gutters and street crossings clean along their right of way; to prohibit the laying of any railroad track across or upon any street, alley or public place without permission first obtained therefor from the department of public works and to provide for the taking up and removing of any track so laid without notice, and charge the expense thereof against the offending person or corporation; and when so provided by contract or franchise, to require railroads, interurban and street car companies now occupying or that shall hereafter occupy with their tracks any of the streets, alleys or other public places of the city to improve, in such manner as may be agreed upon by the city and such company so much of such streets, alleys or other public places as is occupied by such tracks, and to the ends of the cross ties on either side thereof, and, in such case, where there are two or more tracks, to require such railroad, interurban and street car companies to improve also the space between such tracks, and to cause such improvements to be made and assess the cost thereof against such railroad, interurban and street car companies, and make such assessments a lien on the property of such companies, and collect the same by placing them on the tax duplicate or by foreclosing such liens and selling such property, as in case of foreclosure of mortgages. Where the term railroad is used without limitation in this clause it shall not be construed to include interurban or street car roads.

Fiftieth. To authorize the alienation and conveyance of any property, real or personal, belonging to such city, whether used for public and governmental or for private purposes: *Provided,* That no such property shall be sold until the same has been appraised by three disinterested free holders of such city appointed by the judge of the circuit court in the county in which such city is located; and no sale or conveyance of any such property shall be made for a less sum than such appraisement, and, in the case of real estate, only by a two-thirds vote of the common council; such conveyance shall be by the mayor in the name of the city, attested by the city clerk and with the seal of the city: *And provided, further,* That where it is shown to the common council that any personal property does not exceed in value the sum of one hundred dollars

the council may authorize the sale thereof without an appraisement.

Fifty-first. To establish, maintain and regulate pounds, market-houses, market places, houses of refuge, pest houses, hospitals, dispensaries, engine houses and all other public city institutions.

Fifty-second. To regulate the building of party walls and partition fences, prescribe in what proportion adjoining owners shall bear the expenses of the same and in what manner such expense shall be levied and collected; and to define the terms upon which partition walls already constructed may be used by adjoining owners.

Fifty-third. To carry out the objects of the corporation, not hereinbefore particularly specified.

Whenever in this section, or elsewhere in this act, jurisdiction is given to a city beyond its corporate limits, such jurisdiction shall not extend to any point within the corporate limits of another municipal corporation, except by agreement of both corporations, by ordinance duly passed by each, in which case all property owners and other persons, and all property, in each corporation, shall be subject to the terms and conditions of such ordinance, as if the ordinance, in terms, applied only to territory within the limits of a single corporation: *Provided,* That if the corporate authorities of such municipalities can not mutually agree as to the terms and conditions of such ordinance and their united action thereunder, either of such municipal corporations may by petition present the matter to the circuit court of the county in which such petitioning municipality is located: *And, provided,* That if any incorporated town is situated within the corporate limits of any city or surrounded thereby, the common council of such city shall have jurisdiction over such town in matters of public health, safety and drainage. When such petition is filed the clerk of the court shall issue notice to the other municipality, as in civil actions, and the court shall have jurisdiction to hear and determine the matters of such petition. Such hearing shall be by the court without a jury. There may be a change of venue from the judge, but not from the county. The adjudication of the court shall be final; and the costs of the proceeding shall be paid by the municipality filing the petition. In every ordinance which the common council shall pass, there may be imposed a penalty for the violation or non-performance thereof. Such penalty may be either a forfeiture of money, or a fine or imprisonment, or both of the last two: *Provided,* That for one offense no penalty or fine shall exceed three hundred dollars and no imprisonment shall exceed six months. The common council shall also have power to provide by ordinance for the imprisonment of any person against whom a penalty, fine or costs for the violation of any ordinance

shall have been adjudged, until such penalty, fine and costs are fully paid or replevied; and likewise to compel the enforcement of manual labor by such defendant, and by persons sentenced to imprisonment. To this end, the common council of every city shall have power to establish a workhouse where suitable facilities for labor may be provided for prisoners sentenced thereto. Whenever any executive or administrative function shall be required to be performed by any ordinance or resolution of the common council, the same shall be performed by the proper executive department, and not by such council: *Provided,* That in cities of the fifth class such function may be executed by the common council. No new department shall be created. Such ordinance may designate the department which is to perform the duties thereunder, subject to the provisions of this act; but if such designation is not made, either by statute or by ordinance or resolution, the mayor shall assign such duties to the proper department or officer. The common council of any city of the first, second, third or fourth class shall not elect or appoint any person to any office or employment whatever, except as in this act expressly provided.

Common Council—Department Investigations.

SEC. 54. The common council of every city shall have power to supervise and investigate all departments, officers and employes of the government of such city, and to examine into any charge preferred against them or any of them, and into the affairs of any corporation, firm or person in which the city may be interested, or with which it may have entered into a contract or may be about to do so. Such common council shall have power of access to all records pertaining to any such investigation, and power to compel the attendance of witnesses and the production of books, papers and other evidence, at any meeting of the council or of any committee thereof, and for that purpose such council or committee may issue subpoenas and attachments in any case of inquiry, investigation or impeachment, and cause the same to be served and executed in any part of the county where such city is located. If any witness shall refuse to testify as to any fact within his knowledge, or to produce any books or papers within his possession or under his control, required to be used in evidence in any such case, the clerk of the body by whose authority such witness was subpoenaed, if so directed by the body or committee holding the investigation, shall forthwith report, in writing, to the circuit court of such county the facts relating to such refusal; and all questions arising upon such refusal, and also upon any new evidence not included in such first report, which new evidence may be offered either in behalf of or against such witness, shall be heard by such

court. If the court determine that the testimony or evidence required of such witness is competent, relevant and material, and ought to be given or produced by the witness, the court shall make an order requiring the witness to testify, or to produce books and papers, or both. In case of refusal to comply with such order, the court shall have the power to commit the witness or otherwise punish him for contempt, as provided by law in case of contempt of court. No witness shall be excused from testifying in any criminal proceeding or in any investigation or inquiry before the common council or any committee thereof, or before any department or officer of the city having the right to conduct the investigation, touching his knowledge of any offense committed against the provisions of this act or of any ordinance passed in pursuance thereof or continued in force by this act; but such testimony shall not be used against such witness in any criminal prosecution. Whenever any written charges shall have been adopted by the common council, or by any committee thereof, against any officer, employe or department of the corporation, except members of the council, such charge shall be heard by the council, under such regulations as may be prescribed by ordinance. Should such charge be sustained, the common council shall take action thereon and may remove any officer or employe against whom such charge is sustained; but it shall require a two-thirds vote to impeach or remove an officer or employe.

Finances—Management.

SEC. 55. The common council of every city shall have power to manage the finances thereof, subject, however, as to cities of the first, second, third and fourth classes, to the powers and duties herein prescribed in respect to the several executive departments in such cities created by this act. Such common council, on the passage of an ordinance for the purpose, shall have power to borrow money to an amount not exceeding two per cent. of the taxable property of such city, as the same may appear on the tax duplicate for the year in which such loan shall be effected: *Provided,* That the entire money borrowed by such city shall not at any time exceed two per cent. of the taxable property of such city, except for the issue of refunding bonds, as hereinafter provided. Such loans may be made only for the purpose of procuring money to be used in the legitimate exercise of the corporate powers of the city and for the payment of the corporate debts. Such ordinance for loans shall provide for the time and manner of advertising the sale of bonds or other securities, and of the receipt of bids for the same, together with the mode and terms of sale. All duties with regard to the preparation, advertisement, negotiation and sale of such bonds or other securities shall

be performed by the city controller, except in cities of the fifth class, where such duties shall be performed by the city clerk. Such controller, or clerk, as the case may be, after such bonds or other securities have been properly executed, shall deliver the same to the city treasurer, taking his receipt therefor, and upon the conclusion of the contract for the sale of such bonds or other securities, shall certify to the treasurer the amount which the purchaser is to pay for the same, together with the name and place of residence of such purchaser. Thereupon it shall be the duty of the treasurer to receive from the purchaser the amount so certified by the controller, or clerk, and to deliver to the purchaser the bonds or other securities, taking his receipt therefor. The treasurer and the controller, or clerk, shall then each make report of his proceedings to the mayor. The common council shall also have power to authorize the issue and sale of refunding bonds, as provided in section two hundred and thirty-five of this act. The issue of such refunding bonds shall be governed by the same provisions as herein provided for the issue of other bonds and securities. Temporary loans may be authorized in like manner by ordinance of the common council, in anticipation of the revenue of the city for the current and following year, and payable within that period; but the aggregate amount of such temporary loans in any fiscal year shall not exceed the amount of the city tax levy for the same year. No temporary or other loan upon the revenue of any current or succeeding year shall be made until all temporary loans upon the revenue of any preceding year shall have been fully paid. All bonds or other city securities offered for sale pursuant to the provisions of this act, may be negotiable or not, may bear annual interest not exceeding six per cent. per annum, payable annually or semi-annually, may run not longer than thirty years, may contain an option allowing such city to redeem the same at earlier specified dates, in whole or in part, if so directed in the ordinance authorizing such issue, and may be sold for any price not less than par or face value named in such bonds or other securities.

Appropriations by Ordinance.

SEC. 56. No order or warrant for any purpose shall be drawn against the funds of any city, in the hands of the treasurer or other officer, unless an appropriation has been made by ordinance for such purpose and such appropriation is not exhausted, or unless such order or warrant shall be for a salary fixed by statute or ordinance, or in payment of a judgment which such city is compelled to pay, or for interest due on city bonds.

Tax Levy—Failure to Fix.

SEC. 57. If the common council of any city shall fail to pass ordinances fixing the annual tax levy and appropriating money for the various departments of the city government by or before the first Monday of October in any year, then and in that case the last preceding annual appropriations made for any such department or departments shall be deemed to be continued and renewed for the current year, and the last preceding annual tax levy continued; and, in such latter case, the city clerk, or controller, as the case may be, shall report such continued tax levy to the county auditor, as required by section two hundred and one of this act.

SINKING FUND.

Creation of Sinking Fund.

SEC. 58. For the purpose of creating a sinking fund for the gradual extinguishment of the bonded indebtedness of any city, the common council thereof, by an ordinance passed by a two-thirds vote, may determine to create such fund; and such action having been taken, the common council shall annually thereafter, until the payment of the bonded indebtedness of such city shall be fully provided for, levy and cause to be collected, in addition to the other taxes of the corporation, a tax of not less than five cents, nor more than ten cents, on each one hundred dollars of the taxable property in the corporation; which tax shall be collected as other taxes, and applied to extinguishing the bonded indebtedness of the city, as hereinafter provided. In case such sinking fund tax is so levied and collected in any city, all other levies of sinking fund taxes in such city provided for in other sections of this act shall be omitted.

Control by Commissioners—Appointment.

SEC. 59. The sinking fund derived from the tax levy, as provided for in the preceding section, shall be under the control of three commissioners, to be known as the board of sinking fund commissioners, of whom the city controller shall be one and the other two shall be appointed by the mayor as follows: After the taking effect of this act, the mayor shall appoint two sinking fund commissioners, one for two years and one for four years, who shall be of different political parties. Every two years thereafter one commissioner shall be appointed by the mayor to serve for four years, who shall not be of the same political party as his colleague.

Terms of Commissioners—Vacancy.

SEC. 60. Thereafter the term of office of such sinking fund commissioner (other than the controller, who shall be, ex-officio,

commissioner during his term of office) shall be for four years from and after the first day of February after their appointment, and they shall serve until their successors are appointed and qualified. In case of a vacancy in the office of sinking fund commissioner, the mayor shall appoint a commissioner to fill out the unexpired term, but it shall be the duty of the mayor in making any such appointment to see that the two commissioners other than the city controller are not of the same political faith: *Provided,* That in cities of the fifth class the city clerk shall act as commissioner, ex-officio, and perform the duties herein prescribed for the city controller.

Organization of Commissioners.

SEC. 61. Such commissioners shall appoint one of their number as president, and the city controller for the time being, or the city clerk, as the case may be, shall act as secretary of the board, and the office of the board shall be in some place provided by the common council.

Salary of Commissioners—Bond.

SEC. 62. Each of such commissioners, other than the city controller, or clerk, shall receive such salary as the common council may fix, and shall take an oath faithfully to discharge the duties of his office, and give a bond payable to the city, in the penal sum of five thousand dollars, conditioned upon the faithful discharge of his duties as sinking fund commissioner. Such bond shall be procured from a surety company, and shall be approved by the mayor. Upon the acceptance of such bond the controller, or clerk, is authorized, without other appropriation therefor, to draw his order upon the city treasurer for the expense of such bond, the same being certified to him as correct by the mayor.

Depository—Selection—Bids.

SEC. 63. During the month of June of each year, and not later than the fifteenth of June, such commissioners shall notify each incorporated bank and trust company in such city of the amount of money then in the sinking fund and of the probable additions thereto, and deductions therefrom during the coming fiscal year, and that upon the thirtieth day of June, ensuing, bids will be received and opened for the selection of a depository for the sinking fund for the ensuing year, at which bidding the bidder offering the highest rate of interest for the use of the moneys in the fund during the ensuing year, and being, in the judgment of the commissioners, the best bidder, shall be designated as sinking fund depository for the year.

Opening of Depository Bids.

SEC. 64. On such thirtieth day of June, or if the same be a Sunday or holiday, on the first business day thereafter, bids shall be received by such commissioners at their office and shall be opened publicly by the president of such commissioners in the presence of the bidders. Each bid shall state the amount of interest which will be allowed by the bidder for the use of the sinking fund as a call deposit during the ensuing year, and each bid shall be accompanied by a cash deposit of one hundred dollars, which shall be returned to all unsuccessful bidders, and shall be retained in the case of the successful bidder, to guarantee the fulfillment of the bid.

Successful Bidder—Bond.

SEC. 65. The successful bidder shall, within twenty-four hours, furnish a bond to the approval of the sinking fund commissioners in an amount not less than double the probable amount of deposits, as fixed by the sinking fund commissioners in their call for bids, conditioned upon the faithful accounting to the sinking fund commissioners of all moneys which may come into the possession of the depository. Upon the approval of such bond and the execution of a contract by which such bidder is bound to account for the interest on all sinking funds received at the rate named in the successful bid, the one hundred dollar deposit shall be returned to the bidder and the board of sinking fund commissioners shall make an order declaring the successful bidder to be the official depository of the sinking fund during the ensuing year.

Treasurer—Sinking Fund Taxes.

SEC. 66. All sinking fund taxes paid to the city treasurer shall be accounted for by such treasurer, and shall be by him paid over on the first day of each month to the depository designated by the sinking fund commissioners; and all moneys in the hands of such treasurer belonging to any sinking fund of such city theretofore collected shall also be paid over at once to such depository, which depository shall execute to the treasurer its receipt for such deposits and the receipt of such depository countersigned by the controller, or clerk, shall be a full and sufficient discharge to the treasurer of all liability on account of such sinking fund. No part of such sinking fund shall ever be paid over to any sinking fund commissioner.

Depository—Interest Credits.

SEC. 67. On the thirtieth day of June of each year the sinking fund depository shall credit to the sinking fund the amount of interest then accrued, to be added by such depository to the

sinking fund under the terms and conditions of the contract between such depository and the sinking fund commissioners.

Character of Depository.

SEC. 68. No depository shall be selected other than an incorporated trust company, or a bank incorporated under the laws of the United States or of the State of Indiana.

Investments—Payment of Bonds.

SEC. 69. Such commissioners shall have no authority whatever to invest such sinking fund or any part thereof, in any other securities or obligations than obligations of such city, and all obligations of such city so purchased shall, upon their purchase, be cancelled by such commissioners and the fact of such cancellation reported immediately to the mayor and city controller, or clerk. Such commissioners shall, whenever bonds of the city shall be presented to them for redemption at par, redeem the same, if there be in the sinking fund sufficient means for that purpose: *Provided,* That no bonds of such city which are not due shall be redeemed when such redemption would so deplete the sinking fund as to be likely to prevent the payment of bonds due or about to mature.

Tax Levy—How Certified.

SEC. 70. The tax levied for the sinking fund, as hereinbefore provided, shall be certified by the controller, or city clerk, as the case may be, to the auditor of the county wherein such city is situated, as other city tax levies are certified, and shall be placed on the tax list by such county auditor and collected as other taxes, and such taxes shall be a lien on the property whereon they are assessed the same as state and county taxes, and subject to the same penalties for delinquency.

Meetings of Commissioners.

SEC. 71. Regular meetings of the sinking fund commissioners shall be held on the thirtieth day of June in each year, or, if that be a Sunday or holiday, upon the day following; but special meetings may be called by the president or by the controller, or city clerk. The proceedings shall be recorded by the secretary who shall keep proper books showing the bonded indebtedness of the city, and the account of the funds in the hands of the depository and the amount of taxes turned over to the depository by the city treasurer from month to month. All questions relating to the designation of a depository, the payment of bonds or interest, or involving the payment or appropriation of money shall be decided by a viva voce vote, with the name of each mem-

ber voting recorded on the journal, and no question shall be decided unless approved by a majority of the board.

Controller or Clerk—Reports.

SEC. 72. The city controller, or city clerk, as the case may be, shall report to the board of sinking fund commissioners a detailed statement of the outstanding indebtedness of the city for bonds issued, and shall report to the common council at least once a year, a detailed statement of the same, together with a statement of the condition of the sinking fund, which shall be published in the annual report.

Advertising—Cost.

SEC. 73. The necessary costs and expenses incident to advertising for a sinking fund depository, and for the redemption of municipal bonds, and for the bonds furnished by the sinking fund commissioners, shall be paid by warrant of the city controller, or clerk, as hereinbefore provided.

Withdrawals from Fund.

SEC. 74. No money whatever shall be drawn from the sinking fund for any purpose other than the redemption of the bonded indebtedness of the city.

Eligibility of Depository.

SEC. 75. No bank or trust company in which the city controller or clerk, or any sinking fund commissioner shall be an officer or stockholder shall be eligible as sinking fund depository.

Vote for Depository—When a Penalty.

SEC. 76. Any sinking fund commissioner who shall vote to select as depository any bank or trust company in which he shall be an officer, or who shall divert or seek to divert any money in the sinking fund to any other purpose than the redemption of the bonded indebtedness of the city, shall be guilty of a felony and, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years.

Payments from Fund—Warrant—Bonds.

SEC. 77. No money shall be paid out of the sinking fund except upon the warrant of the president of the sinking fund commissioners upon the designated depository in favor of the controller, or clerk. In the event of a change in the depository, the controller, or clerk, shall endorse the warrant to the new depository. In the event of the payment of city bonds, the warrant required for the payment of such bonds, with accrued interest and exchange, shall

be drawn by the president upon the depository in favor of the controller, or clerk, and delivered to such controller, or clerk, upon his executing a written receipt therefor, and such controller, or clerk, shall thereupon procure exchange, if necessary, to remit for such bonds, if payable elsewhere, or cash for such payment, if it be made in such city; and, upon cancellation and surrender of the bonds redeemed, shall turn over such bond to the sinking fund commissioners.

Tax Rate—Minimum.

SEC. 78. If, in any city, the common council should not by ordinance elect to establish a sinking fund and provide for the appointment of a board of sinking fund commissioners, as hereinbefore provided, then and in such case, for the purpose of creating a sinking fund for the gradual extinguishment of the bonds and funded debt of such city, the common council thereof shall, annually, levy and collect, in addition to other taxes in this act provided for, not less than five cents on the hundred dollars valuation of the taxable property in such city, which shall be paid into the treasury and applied to the extinguishment of the bonded indebtedness of such city, and to no other purpose whatever: *Provided,* That, under direction of the common council, in case any part of such sinking fund can not be applied to the taking up of the bonds of such city, the same may be invested in any bonds of the United States or of this state or of any county in this state, or in street, sewer, or other like improvement bonds of such city, in which case the interest or other income collected on such bonds shall be a part of such sinking fund.

THE EXECUTIVE AUTHORITY.

Executive Authority—Where Vested.

SEC. 79. The executive and administrative authority of every city shall be vested in the mayor, city clerk, the departments herein provided for, and in such other officers as may be appointed by virtue of this act: *Provided,* That in cities of the fifth class, the city marshal shall be in charge of the police force; and a chief of the fire force, to be appointed by the mayor, in charge of the fire force of any such city; and the common council of any such city of the fifth class may, by ordinance, provide that committees of such council shall exercise executive functions, subject to the direction of such council, when not in conflict with any of the provisions of this act.

DUTIES OF MAYOR.

Mayor—Powers and Duties.

SEC. 80. It shall be the duty of the mayor:

First. To cause the ordinances of the city and the laws of the state to be executed and enforced.

Second. To communicate to the council at least once a year a statement of the finances and general conditions of the city, and also such information in relation to city affairs as he may be called upon to furnish from time to time.

Third. To make such recommendations in writing, by message to the council, as he may deem expedient.

Fourth. To call special meetings of the council when the same shall be expedient.

Fifth. To perform such duties of an executive or administrative character as may be prescribed by law; and to exercise general supervision over subordinate officers and be responsible for the good order and efficient government of the city.

Sixth. To fill by appointment vacancies for unexpired terms in the offices of such city, except in case of vacancy in the office of mayor or councilman, as in this act hereinbefore provided.

Seventh. To appoint the heads of departments, as hereinafter created, in cities of the first, second, third and fourth classes, and to appoint, in cities of the fifth class, a city marshal, chief of the fire force and street commissioner, all of which appointees shall hold office until their successors are appointed and qualified; and he shall make such other appointments as may be provided by law or by the ordinances of any city: *Provided,* That the mayor may at any time suspend or remove from office any or all of such heads of departments or other persons, whether appointed by him or by any of his predecessors, by notifying them to that effect and sending a message to the council stating in writing his reasons for such removal.

Eighth. To sign all bonds, deeds and written contracts of the corporation, and all licenses issued pursuant to law by any department. He shall, upon reasonable notice of not less than three days to the person complained of, hear any complaint against any person to whom a license has been issued, and may issue subpoenas and compel the attendance of witnesses to testify on such hearing; may administer oaths to such witnesses, and require them to testify. The rules of practice and procedure in force in trials in the city court of such city, so far as applicable, including the right to appear by counsel and to compel the attendance of witnesses for or against persons complained of, shall apply to such proceedings before the mayor. Upon the hearing, if it shall be found that the person complained of has wilfully violated any of the terms or

conditions of his license, or has wilfully done, authorized or permitted to be done any act in violation of the law or the ordinance of such city relating to the business or place of business licensed, the mayor shall revoke or suspend such license. He shall file a copy of his findings and determination with the city controller, or clerk, if in a city of the fifth class, within twenty-four hours after it is made.

Ninth. To approve or disapprove, in writing, within ten days after receiving the same, every ordinance or resolution of the common council; and he shall transmit to such council within such time a message, announcing such approval or veto. In case of a veto he shall state in writing his reason therefor, and such resolution or ordinance shall not become operative unless the same is passed over such veto, by a two-thirds vote of the common council: *Provided,* That in ordinances appropriating money or levying a tax or taxes, the mayor may approve or disapprove the separate items of such appropriation or levy. In case of disapproval of any item or items, and approval of the remainder of the ordinance, so much of the same as is approved shall be law, and operative, and those items which are disapproved shall not become law and operative unless passed over his veto by a two-thirds vote as before provided.

Tenth. To call together the heads of departments provided for in this act, except that of assessment and collection of taxes, for consultation and advice upon the affairs of the city at least once a month, and to call on the heads of all departments for reports, which it shall be their duty to submit in writing. Records shall be kept of such meetings, and rules and regulations shall be adopted thereat for the administration of the affairs of the city departments, not inconsistent with any law or ordinance; and rules and regulations shall be adopted at such meetings which shall prescribe a common and systematic method of ascertaining the comparative fitness of applicants for office, position and promotion, and of selecting, appointing and promoting those found to be best fitted.

Eleventh. To appoint, as often as he thinks proper, three competent persons to examine, without notice, the accounts of any department, officer or employe, and the money, securities and property of the city in their possession or charge, and report the result of such investigation.

In cities of the first class, the mayor shall be paid an annual salary of four thousand dollars, which may be increased by ordinance to any amount not exceeding five thousand dollars; in cities of the second class, an annual salary of three thousand dollars, which may be increased by ordinance to any amount not exceeding four thousand dollars; in cities of the third class, an annual

salary of two thousand dollars, which may be increased by ordinance to any amount not exceeding twenty-five hundred dollars; in cities of the fourth class, an annual salary to be fixed by ordinance, not to exceed fifteen hundred dollars; and, in cities of the fifth class, an annual salary to be fixed by ordinance: *Provided,* That no change of salary shall apply to any incumbent or to any officer-elect.

THE CITY CLERK.

Clerk—Powers and Duties.

SEC. 81. The city clerk of every city shall be clerk of the common council and may appoint at his own expense one or more deputies to assist him. He shall keep the records of the proceedings of such council and have charge of all the papers relating to its business; shall prepare and keep an ordinance book, as hereinbefore provided in this act; shall have charge of all documents and books, the keeping of which may be entrusted to him by statute or ordinance; shall keep the city seal; and shall perform all other duties prescribed by law or incident to his office. In cities of the third and fourth classes, the city clerk shall be also clerk of the board of public works, and shall, by himself or deputy, perform all the duties incident to such office. Such city clerk, for all his services, shall receive, in cities of the first class, a salary of three thousand dollars a year; in cities of the second class, a salary of two thousand dollars a year; in cities of the third class, a salary of fifteen hundred dollars a year; in cities of the fourth class, a salary to be fixed by ordinance not to exceed one thousand dollars a year; and, in cities of the fifth class, a salary to be fixed by ordinance; and such clerk shall not receive any other compensation, fee or perquisite whatever, except for furnishing certified copies of the records in his possession, which copies of records shall be received as evidence in any court or proceeding, and for which such clerk shall receive like fees to those paid for similar services done by clerks of the circuit court. In case, however, any clerk is now performing the duties of controller, under any law now in force, he shall continue in the performance of such duties and receive the salary heretofore paid him, and his deputies shall continue in number the same and receive the salaries now authorized by law instead of the salaries above provided, until his successor is elected and qualified: *Provided,* That where by this act additional duties as clerk to the board of public works are imposed on such city clerk, it shall be the duty of the common council of such city to make by ordinance reasonable provision for additional salary, or deputy for such clerk, or both, not to exceed in total expense to such city the sum of seven hundred and twenty dollars. In case the necessity therefor

is shown to the satisfaction of the common council, the city clerk may be authorized by ordinance to employ deputies, in cities of the first class at a salary not to exceed twelve hundred dollars a year; in cities of the second class at a salary not to exceed one thousand dollars a year; in cities of the third class at a salary not to exceed eight hundred dollars a year; in cities of the fourth class at a salary to be fixed by ordinance, not to exceed seven hundred dollars a year; and, in cities of the fifth class at a salary to be fixed by ordinance. As soon as his successor has been elected and qualified, the city clerk shall deliver to him all the books, papers and other belongings of his office.

EXECUTIVE DEPARTMENT.

Departments—Creation—Powers and Duties.

SEC. 82. The following executive departments are hereby established in cities of the first, second, third and fourth classes:

a. Department of finance.
b. Department of law.
c. Department of public work.
d. Department of public safety.
e. Department of assessment and collection.
f. Department of public health and charities.

Provided, however, That in cities of the fourth class all functions in this act assigned to the department of public safety shall be performed by the department of public works: *And provided, further,* That in cities of the third class the common council may provide by ordinance that all functions in this act assigned to the department of public safety shall be performed by the department of public works. No other executive or administrative departments shall be established in any such city, unless expressly provided for by law. Subordinate officers and employes not herein provided for shall be appointed by their respective departments. Each department shall have power to prescribe rules and regulations not inconsistent with any statute or ordinance, or any rule or regulation established pursuant to section eighty, clause ten, of this act, for its own government, regulating the conduct of its officers, clerks and employes, the distribution and performance of its business, and the preservation of books, records, papers and property under its control. All official business of the several departments shall be transacted at the offices thereof, and a continuous record or minute shall be kept at such offices respectively of such business. Each department shall promptly furnish to the mayor or the common council any information which may be called for in relation to its affairs. The heads of such depart-

ments, except the department of assessment and collection, shall be appointed by the mayor. Each of such departments shall have power to designate and appoint, and at pleasure remove, any person in such department as deputy or first assistant. Each department may also appoint and remove any of its clerks, assistants or employes, subject to any rule or regulation adopted pursuant to section eighty, clause ten, of this act, and, unless otherwise established by ordinance, may fix their salaries: *Provided,* That after the expiration of thirty days from the time when a new officer or officers shall have been appointed to the head of a department, he or they may remove clerks or assistants only upon filing in writing with the city clerk the reasons for any such removal; except that foremen, inspectors, and laborers temporarily employed under the department of public works, may be removed at any time at the pleasure of the department. All officers shall give bond as required by ordinance, except when otherwise provided herein.

Appointees—Qualifications—Fees, Etc.

SEC. 83. No person shall be appointed as the head of any department, or as a member of any board herein provided for, unless he shall have been a resident and elector of such city for one year immediately prior thereto. No person who is paid a salary for his services from the city treasury shall receive to or for his own use, directly or indirectly, any fees, perquisites of office, commissions, percentages, or money paid to him in his official capacity, unless specifically authorized in this act; but all fees, perquisites, commissions, percentages, and moneys so paid and received by or for any such officer or person shall be the property of the city, and shall be paid by him into the city treasury; and all moneys received for licenses or permits shall be paid into the treasury weekly without deduction by the officer or department receiving them; and every such officer or person who shall receive any fees, perquisites, percentages, or other moneys which belong to the city, and should be so paid into its treasury, shall, before he shall be entitled to receive or be paid his salary, make, under oath, a detailed statement and return to the city controller, in such form as such controller may prescribe, showing the amount of all such moneys received by him since the last preceding statement and return, and shall produce a receipt showing the payment of such sum to the treasurer. The controller shall require any such officer or person to make such statement and return to him, if it be not made as herein provided, and shall examine such officer or person under oath touching the matter herein provided for.

Expenditures—Estimates.

SEC. 84. It shall be the duty of each executive department before the commencement of each fiscal year, to submit to the joint meeting of the heads of the departments and of the various boards, hereinbefore provided for in section eighty, clause ten, an estimate of the amount of money required for their respective departments for the ensuing fiscal year, stating with as great particularity as possible each item thereof. The controller shall at the same time submit an itemized statement or estimate of city expenditures for other purposes, for the ensuing year, over and above the moneys proposed to be used by the various executive departments. After such meeting, and reports and consultation, the city controller shall proceed to revise such estimates for the ensuing year, and shall then prepare a report to the mayor of the various estimated amounts required, in such controller's opinion, for each executive department, and for other city expenses, together with an estimate of the necessary per cent. of taxes to be levied. The mayor shall at the next meeting of the common council present such report with such recommendations as he may see fit. It shall be the duty of the committee of finance of the common council thereupon to prepare an ordinance fixing the rate of taxation for the ensuing year, and also an ordinance making appropriations by items for the use of the various executive departments and other city purposes for the ensuing year. Such ordinance may reduce any estimated item for any executive department, from the figure submitted in the report of the city controller, but shall not increase the same unless recommended by the mayor. Such appropriation ordinance shall thereafter be promptly acted upon by the common council. If at any time after the passage of such ordinance an emergency should arise for further appropriations for the use of any department, on the representation of such department, as hereinbefore provided, or for other purposes during the year, such additional appropriations may be made on the recommendation of the controller, by a two-thirds vote of the council.

Contracts and Agreements—When Void.

SEC. 85. No executive department, officer or employe thereof shall have power to bind such city to any contract or agreement, or in any other way, to any extent beyond the amount of money at the time already appropriated by ordinance for the purposes of such department; and all contracts and agreements, express or implied, and all obligations of any and every sort, beyond such existing appropriations, are declared to be absolutely void: *Provided,* That the board of public works shall have power to con-

tract with any individual or corporation for lighting the streets, alleys and other public places or for supplying the city with gas, water, steam, power, heat, or electricity, and for the collection, removal and disposal of garbage, ashes or refuse, on such terms and for such times, not exceeding the term fixed by section two hundred and fifty-four of this act, as may be agreed upon; but any such contract shall be submitted to the common council of such city and approved by ordinance before the same shall take effect, and if so approved shall immediately become effective: *Provided, further,* That nothing herein contained shall prevent any such department from issuing any bond or other obligation expressly authorized by this act and provided for by ordinance.

Warrants—Excess of Appropriations—Penalty.

SEC. 86. Any city official who shall issue any bond, certificate or warrant for the payment of money, which shall purport to be an obligation of such city, and be beyond the unexpended balance of any appropriation made for such purpose, or who shall attempt to bind such city by any contract or agreement, or in any other way, to any extent beyond the amount of money at the time already appropriated by ordinance for such purpose, and remaining at the time unexpended except as in the last preceding section provided, shall be liable on his official bond to any person injured thereby, and shall be fined not more than one thousand dollars, and imprisoned in the county jail not more than six months, either, or both.

A. DEPARTMENT OF FINANCE.

City Controller—Appointment—Salary.

SEC. 87. The city controller shall be at the head of the department of finance, and shall have an appropriate seal. He shall be appointed by the mayor. His salary, in cities of the first and second classes, shall be two thousand dollars a year, which may be increased by ordinance to a sum not exceeding three thousand dollars a year; in cities of the third class, fifteen hundred dollars a year, which may be increased by ordinance to a sum not exceeding two thousand dollars a year; and, in cities of the fourth class, a salary to be fixed by ordinance, not to exceed twelve hundred dollars a year.

Controller—Powers and Duties.

SEC. 88. It shall be the duty of the controller:

First. To prescribe the form of reports and accounts to be rendered to his department, and to have the inspection and revision of the accounts of all other departments and trusts.

Second. To audit the accounts of the several departments and trusts, and all other accounts in which the city is concerned, and submit annually to the council at the end of each fiscal year a report of the accounts of the city, under his oath, exhibiting the revenues, receipts and expenditures, and the sources from which the revenues and funds are derived; which report shall be published in pamphlet form.

Third. To keep separate accounts for each specific item of appropriation made by the council to each department, and require all warrants to state specifically against which of such items the warrant is drawn. Each account shall be accompanied by a statement in detail in separate columns of the several appropriations, the amount drawn on each appropriation, the unpaid contracts charged against it, and the balance standing to the credit of the same. He shall not suffer any appropriation to be overdrawn or the appropriation for one item of expense to be drawn upon for any other purpose, or by any department other than that for which the appropriation was specifically made, except on transfers authorized by ordinances. He shall sign and issue all orders for money upon the city treasury, and no money shall be paid out by the treasurer except upon such order. In case of stated salaries fixed by law or ordinance, the controller shall issue orders therefor, but in all other cases he shall require a warrant to be presented to him from the head of the department under whose supervision the obligation has been incurred, or, if not so incurred, then such warrant shall be drawn by the mayor. In no case shall the controller draw an order on the treasury unless there be at the time money in the treasury properly applicable to the payment thereof. The expenditures incurred by the controller himself must be approved in writing by the mayor before any order is drawn therefor.

Fourth. To have charge of all books or papers pertaining to his department or entrusted to it, and to turn the same over to his successor.

Fifth. If any warrant presented to the controller contains an item for which no appropriation has been made, or there shall not be a sufficient balance of the proper fund for the payment thereof, or which for any other cause should not be approved, he shall not approve the same, and shall notify the proper department of the facts. And if the controller shall approve any warrant contrary to the provisions hereof, he shall be individually liable for the amount of the same to the holder thereof; and, to the extent of his bond, his sureties shall also be liable. Whenever a warrant shall be presented to him, he shall have power to require evidence that the amount claimed is justly due, and for that purpose may sum-

mon before him any officer, agent or employe of any department of the city, or any other person, and examine him upon oath relative to such warrant or claim. Such person so summoned shall be subject to the provisions of this act touching the examination of persons by the council, such controller having the same power as such body in relation to such examination.

Sixth. To perform the duties elsewhere defined by this act with regard to the negotiation and sale of city securities, and to keep a register of all bonds of the city and of the transfers thereof, when so provided in any such bond, and an account of all outstanding securities.

Seventh. To manage and direct the finances and accounts of the city and to make investments of city funds, subject to the ordinances of the common council.

Eighth. To issue all city licenses, upon the presentation and surrender of the receipt of the treasurer showing the payment of the license fee, and to collect controller's fees as fixed by ordinance.

Ninth. To pay, once each week, to the treasurer all fees and other amounts collected by his department for the preceding week, specifying the source from which each item has been derived.

Tenth. To prescribe the forms and methods of keeping and rendering all city accounts, the form of accounts and pay-rolls to be used in the several departments and offices, the manner in which salaries shall be drawn and the mode by which creditors, officers and employes shall be paid. All salaries shall be payable monthly.

Eleventh. To furnish the treasurer statements of all appropriations made by the council before any warrant shall be drawn on account of the same, and to notify the mayor in case of any neglect or failure on the part of any officer or officers authorized to collect any moneys for or on account of the city, in the performance of such duty or in depositing their collections in the treasury; and thereupon the mayor shall suspend such officer or officers, and proceed against them by an action upon their official bond or otherwise, as he may deem best.

Twelfth. To examine carefully tax duplicates in the hands of the county auditor and county treasurer and see that they are properly made out, so far as the same relate to city taxes, and to see that the assessment of property is properly made out by the assessor, so far as the same relates to city taxes, and to notify the treasurer of any omitted property that may come to his knowledge.

Thirteenth. To examine the accounts of the treasurer and make an annual settlement with him, charging to such treasurer the amount of all taxes and other assessments, entered on the duplicate, in favor of such city, together with all penalties, interest and other sums in addition to the amount of such taxes, which it may

be the duty, according to law, of such treasurer to collect in behalf of the city, and to credit him with all disbursements made on account of lawful orders drawn on him by such controller.

Fourteenth. To draw orders on the treasury for miscellaneous city expenditures, not made under the direction of any executive department, nor specifically fixed by law as in the case of salaries: *Provided,* That no such order shall be drawn by such controller unless the money properly applicable thereto has been appropriated by ordinance and remains unexpended; and no liability shall accrue against such city, nor can any officer, agent or employe of such city bind the same directly or indirectly for any such miscellaneous expense without the written approval of the controller previously obtained and filed in the controller's office, nor in any case beyond the appropriation already made and remaining unexpended available for such purposes. All obligations in contravention of the preceding provision are declared to be void for all purposes.

Deputy Controller—Appointment—Salary.

SEC. 89. In cities of the first class, the controller may appoint a deputy, for whose acts he shall be responsible, having an annual salary of one thousand dollars, which may be increased by ordinance to a sum not exceeding twelve hundred dollars. In cities of the second and third classes, the common council may provide by ordinance for the appointment by the controller of a deputy for whose acts he shall be responsible, having an annual salary of eight hundred dollars, which may be increased by ordinance to a sum not exceeding one thousand dollars. The controller and his deputy are hereby authorized and empowered to administer oaths in all matters relating to his office, for which no charge shall be made.

B. DEPARTMENT OF LAW.

City Attorney—Powers and Duties.

SEC. 90. The head of the department of law in every city shall be the attorney and counsel of such city. He shall be appointed by the mayor, shall hold office as hereinbefore provided, and give bond with surety in the sum of five thousand dollars, to be approved by the mayor, except that in cities of the fifth class the city attorney shall be appointed by the common council. He shall have the management, charge and control of the law business of such city and for each branch of its government, shall prosecute all violators of city ordinances, shall be the legal adviser of all its departments and officers, shall draw up ordinances, leases, deeds, contracts or other legal papers for such city and its various departments when requested to do so by the proper officer, shall be

the custodian of the papers properly appertaining to his office, and shall turn the same over to his successor in office. He shall conduct all legal proceedings authorized by this act, and all appeals of every nature whatsoever in which such city or the public shall have an interest, shall make all searches and examine all abstracts of title required in opening, widening or changing any street, alley or public place, or required in any public work of any kind. In cities of the first class, the city attorney shall receive an annual salary of four thousand dollars, which may be increased by ordinance to any amount not exceeding five thousand dollars; in cities of the second class, the annual salary of the city attorney shall be two thousand dollars, which may be increased by ordinance to any amount not exceeding three thousand dollars; in cities of the third class, the annual salary of the city attorney shall be fifteen hundred dollars, which may be increased by ordinance to any amount not exceeding two thousand dollars; in cities of the fourth class, the annual salary of the city attorney shall be fixed by ordinance in any amount not exceeding fifteen hundred dollars; and, in cities of the fifth class, the annual salary of the city attorney shall be fixed by ordinance. The salary hereby provided for the city attorney shall be in full for all his services. All fees, perquisites, or other emoluments received by him, or payable to him, except for prosecuting violators of city ordinances shall be collected by him for and in behalf of such city, a careful account kept thereof, and the same paid into the city treasury once a week, such payment to be made under oath as to the amount received and items for which received. Such attorney shall use all diligence to collect costs due such city, and all other fees or recoveries falling within the purview of his official duties. In cities of the first class, the city attorney shall appoint an assistant city attorney who shall receive an annual salary, to be fixed by ordinance, not exceeding twenty-five hundred dollars; and also a second assistant who shall receive an annual salary, to be fixed by ordinance, not exceeding fifteen hundred dollars. And, in all cities, the city attorney shall employ such other assistants as he may be authorized to do by ordinance, and no other. The city attorney of every city shall promptly commence all proceedings necessary or advisable for the protection or enforcement of the rights of such city or of the public. He shall report to the mayor in writing all such matters as he may deem important, and to the department of finance all judgments for which such city shall be liable. No judgment against such city shall be enforcible except out of moneys appropriated for that purpose, but the common council and mayor may be compelled by mandamus proceedings to levy, collect and appropriate the necessary sum for the payment of any judgment; in which case such mayor and common council may be sued col-

lectively by their legal names, service of process being had on any member thereof, and all members shall be bound by such judgment. In all actions in which any city is entitled to pray an appeal, the same shall be granted as to such city without bond. No proceedings shall be had to enforce any judgment against such city pending an appeal therefrom.

C. DEPARTMENT OF PUBLIC WORKS.

Board Public Works—Appointment—Salary—Bond.

SEC. 91. The department of public works shall have for its head a board of three members, to be appointed by the mayor, not more than two of whom shall be of the same political party. The mayor shall have the power at any time to remove any member of such board and to fill, by appointment, any vacancy occurring in such office. The person appointed to fill a vacancy shall hold his office, subject to removal by the mayor, until his successor be appointed. In cities of the first class, each member of such board shall receive a salary at the rate of fifteen hundred dollars a year, which may be increased by ordinance to a rate not exceeding two thousand dollars; in cities of the second class, of fifteen hundred dollars, which may be increased by ordinance to a sum not exceeding eighteen hundred dollars a year; in cities of the third class, of twelve hundred dollars, which may be increased by ordinance to a sum not exceeding fifteen hundred dollars; and, in cities of the fourth class, each member of the board shall receive a salary at the rate of one thousand dollars a year, which may be increased by ordinance to a rate not exceeding twelve hundred dollars. Each member of such board shall give bond with sureties in the sum of five thousand dollars, to be approved by the controller. Such board shall choose a president from its own number. No member of such board shall have any authority to act on behalf of the same, except pursuant to an order of the board, regularly made at a meeting of the same at which meeting a majority of such board shall have been present. All actions of the board, together with a record of the vote of each member, where the vote is not unanimous, shall be recorded by the clerk thereof, who shall be the city clerk or his deputy, except in cities of the first and second classes, where such clerk shall be appointed by the board: In cities of the first class at a salary of one thousand dollars per annum, which may be increased by ordinance, to not exceeding fifteen hundred dollars per annum; in cities of the second class at a salary of five hundred dollars, which may be increased by ordinance to not exceeding one thousand dollars per annum. The board shall make rules governing the time and place for holding regular and called meetings, and for giving notice thereof.

City Civil Engineer—Appointment—Salary—Bond.

SEC. 92. The mayor shall appoint a city civil engineer who shall be subject to the direction of the board of public works except in cities of the fifth class, where he shall be subject to the orders of the common council. Such city engineer shall receive a salary in cities of the first class of twenty-five hundred dollars a year, which may by ordinance be increased to not more than thirty-five hundred dollars a year; in cities of the second class of two thousand dollars a year, which may be increased by ordinance to a sum not exceeding twenty-five hundred dollars a year; in cities of the third class, a salary to be fixed by ordinance, not to exceed fifteen hundred dollars a year; in cities of the fourth class a salary to be fixed by ordinance not to exceed one thousand dollars a year, and, in cities of the fifth class at a salary to be fixed by ordinance. The board of public works upon the nomination of the city engineer may appoint necessary assistants to said city engineer, and such engineer shall keep an accurate record of grades and lines of sewers, and such other matters as may be required by the duties of his office. The amount of his bond, to be approved by the mayor, and the compensation of any necessary assistants shall be fixed by ordinance.

Board Public Works—Powers and Duties.

SEC. 93. The board of public works shall have power:

First. To condemn, rent or purchase any real estate or personal property needed by any such city for any public use, except when a different provision for purchase is made by this act: *Provided,* That when a sum of more than two thousand dollars is required to be paid for condemnation, rent or purchase of any real estate or personal property, the same shall not take place unless the condemnation, rent or purchase is specifically authorized by ordinance.

Second. To have charge of all property, real and personal, belonging to such city, and to care for the same, except where the custody of such property is by this act placed under different control.

Third. To design, order, contract for and execute the improvement or repair of any property, real or personal, belonging to or used by such city, and the erection of all buildings for public purposes, together with all fire cisterns, pounds and all other structures of any nature, needed for any public purpose.

Fourth. To approve the platting of all streets and alleys in any addition to such city, or within the corporate limits thereof or in any subdivision therein; and in cities of the first and second classes within four miles of the corporate limits thereof, and to provide regulations governing such platting; to require such streets and

alleys to be not less in width, and to be co-terminous with adjoining streets and alleys. No plat shall be entitled to record in the recorder's office in the county in which such city is located without such written approval indorsed thereon.

Fifth. To lay out, open, change, vacate, and to fix or change the grade of any street, alley, or public place within such city, and to design, order, contract for and execute the improvement or repair of any street, alley, wharf or public place within such city.

Sixth. To repair, clean, light and sprinkle any street, alley, wharf or public place within such city which, in the opinion of the board, requires such improvement, such work to be done either by contract or otherwise; and to cause lamp posts or other lighting apparatus to be erected in the streets, alleys or public places of such city.

Seventh. To lay out, design, order, contract for and execute the construction, alteration and maintenance of all public drains or sewers within such city, and all drains or sewers without such city and within four miles thereof, which may be necessary to carry off the drainage of such city.

Eighth. To purchase within or without the limits of such city, and to construct, by contract or otherwise, and to operate, water works, gas works, electric light works, heating and power plants, steam and power houses and lines, for the purpose of supplying such city and the inhabitants thereof with the use and convenience of such works, or to purchase or hold a majority of the stock in corporations organized for any of the above purposes; and to purchase within or without the limits of such city, lands or other property for any such purpose: *Provided,* That none of the powers conferred by this paragraph shall be exercised except pursuant to an ordinance specifically directing the same, and after an election had in relation thereto, as hereinafter provided.

Ninth. To contract for the furnishing of gas, either natural or artificial, water, steam or electricity, light, heat or power, to such city or to the citizens thereof, by any company or individual, and in such contract to fix the terms and conditions and the prices to be charged for the same: *Provided,* That all such contracts for the furnishing of gas, steam or electricity, light, heat or power for such city, or citizens thereof, shall be approved by ordinance of the common council before the same shall take effect: *And provided further,* That the department of public works, at least three months before the expiration of any such contract or contracts which are or may hereafter be in force, shall, by publication once each week for two successive weeks in a newspaper of general circulation in such city, give notice that it will receive bids for such supplies.

Tenth. To design, order, contract for and cause the erection of any culvert, bridge, way, viaduct or aqueduct within such city, or to enter into a contract with any company or individual for the joint erection and maintenance by such company or individual and such city of any such structure.

Eleventh. To authorize telegraph, telephone, electric light, gas, water, steam, street car, railroad or interurban companies to use any street, alley or public place in such city, and erect necessary structures therein; to prescribe the terms and conditions of such use and to fix by contract the prices to be charged to patrons: *Provided,* That such contract shall in all cases be submitted by such board to the common council of such city and be approved by ordinance before the same shall take effect.

Twelfth. To license the making of excavations in, or the removal of coal, rock, gravel or other material from the surface, or underneath the surface, of any street, alley or public place in such city; and to require bonds for damages caused by such excavations and to secure the proper replacement of the street.

Thirteenth. To direct the removal of any or all structures in the streets, alleys or public places of such city, and to remove the same at the expense of the persons maintaining the same on their failure to make such removal.

Fourteenth. To design, order, contract for and cause the erection of any levee within the limits of such city, or within four miles thereof.

Fifteenth. To straighten, deepen or otherwise change or improve any water course, natural or artificial, within such city, or within four miles thereof, and to require the owners of canals and water courses to construct and maintain bridges across the same at street and alley intersections.

Sixteenth. To remove all dead animals, garbage, filth, ashes, dirt, rubbish or other offal from such city, either by contract or otherwise, and to erect crematories or other plants for the destruction and disposal thereof.

Seventeenth. To prepare a general uniform plan for the drainage and sewerage of such city, and extend the same from time to time, and to provide for the disposal of sewage.

Eighteenth. To make and keep a map and record of all sewer, gas, water, electric wire, heat and other pipes and conduits in such city, public and private, showing the size, depth, inclination, location and date of construction of the same, and to record therein every change which may be made in the same, together with all new connections and improvements.

Nineteenth. To fill or drain, at the owner's expense, any lot or tract of ground within such city, or within four miles from its cor-

porate limits, whenever the water thereon has become or may become so stagnant or noxious as to be injurious to the public health and comfort, and to make such expense a lien on such lot or tract and collectible by foreclosure or by placing the same on the tax duplicate: *Provided,* That not to exceed twenty per cent. of the value of such lot or land, as valued and assessed upon the tax duplicate, shall be expended in filling up or draining the same in any one year.

Twentieth. To construct urinals and fountains in public places.

Twenty-first. To fix, establish, change and keep a record of the grades of all streets, alleys and sidewalks.

Twenty-second. To discharge all other duties of an executive character not falling within the sphere of some other executive department, or imposed upon such department by ordinance.

Twenty-third. It is further made the duty of the board of public works, in cities of the third class when so required by ordinance, and in cities of the fourth class without such ordinance, to perform all the duties and exercise all the powers in this act assigned to and required of the board of public safety.

Streets, Alleys, Etc.—Supervision.

SEC. 94. It shall be the duty of the board of public works to have general supervision over the streets, alleys, sewers, public grounds and other property of the city, unless otherwise provided in this act, and to keep the same in repair and good condition, and to provide for the cleaning of such streets and alleys. The cost of such care and repairs and of the cleaning and sweeping of such streets shall be paid out of the general fund. It shall be the duty of such board of public works whenever any such work ordered or undertaken by it is payable out of the general treasury of such city, to cause such work to be done either by independent contract or by employes of such board, as may be deemed best. But whenever any work ordered or undertaken by such board is to be paid for, in whole or in part, by assessments made for that purpose upon the property benefited thereby, such board shall cause such work to be done by contract, except as otherwise provided in this act: *Provided,* That in case such work is done by contract such contract shall stipulate under proper penalty that the contractor shall give residents of such city and of the county in which such city is located preference as employes.

Contracts—Notice—Bids—Forfeiture.

SEC. 95. Whenever such board shall order any work to be done which, either by order of the board or according to law, is to be performed by contract, such board shall prepare and place on file in the office of such department complete drawings and specifi-

cations for such work. Thereupon such board shall cause to be published for two weeks, once each week, in a newspaper of general circulation published in such city, a notice informing the public and contractors of the general nature of the work and of the fact that the drawings and specifications are on file in such office and calling for sealed proposals for such work, by a day not earlier than ten days after the first of such publications. Such board shall require each bidder to file with such board an affidavit that such bidder has not directly or indirectly entered into any combination, collusion, undertaking or agreement with any other bidder to maintain the price of any work or contract or to prevent any other bidder from bidding or to induce any bidder to refrain from bidding on any contract or work, and that such bid is made without regard or reference to any other bid, and without any agreement, understanding or combination, either directly or indirectly, with any other person with reference to such bidding in any way or manner whatever. And if after any contract has been let by such board it shall be made to appear that the successful bidder has been guilty of any collusion, combination, understanding or agreement, as defined in such affidavit, such bidder shall forfeit such contract and such work shall be relet by such board. The board may, in its discretion, fix a later day for receiving such proposals, provided such date shall be mentioned in each of such notices. Such board shall, if a satisfactory bid be received, let such contract to the lowest and best bidder. The board may by order impose further conditions upon bidders with regard to bond and surety, guaranteeing the good faith and responsibility of such bidders, or insuring the faithful completion of such work according to contract, or for keeping the same in repair for any length of time, or for any other purpose.

Expenses—How Paid.

SEC. 96. All expenses incurred or authorized by such board of public works shall be payable out of the general funds of such city appropriated to the use of such board and available for the particular purpose, except where this act specifically directs that such expenses are to be paid by assessments against property holders.

APPROPRIATION OF PROPERTY.

Condemnation Proceedings—Notice—Remonstrance—Hearing.

SEC. 97. Whenever the board of public works of any city shall desire to appropriate or condemn, for the use of such city, any property, real or personal, or to open, change, lay out or vacate any street, alley or public place within such city, including proposed street or alley crossings of railways or other rights of way

in cases where the proposed street or alley is to cross the same, it shall adopt a resolution to that effect, describing the property which may be injuriously or beneficially affected, and shall cause notice of such resolution to be published in a newspaper of general circulation published in such city once each week for two consecutive weeks. Such notice shall name a date, not less than ten days after the last publication, at which such board will receive or hear remonstrances from persons interested in or affected by such proceeding. Such board shall consider such remonstrances, if any, and thereupon take final action, confirming, modifying or rescinding its original resolution, which action shall be final and conclusive on all persons.

Order—Benefit or Damage—Property List.

SEC. 98. Upon the final order being made, as provided in the preceding section, such board shall cause to be prepared a list or roll of all the owners or holders of property, and of interests therein, sought to be taken or to be injuriously affected; and, in case of the opening, laying out, change or vacation of any street, alley or public place in such city, or within four miles thereof, a list of the owners or holders of property, or of interests therein, to be beneficially affected by such work. Such list shall not be confined to the owners of property along the line of the proposed work, but shall extend to and include all property taken, benefited or injuriously affected. In addition to such names, such list shall show, with reasonable certainty, a description of each piece of property belonging to such persons and to be taken, or to be affected either beneficially or injuriously. No greater certainty in names or descriptions shall be necessary to the validity of any such assessment than is required in the assessment of taxes.

Assessment of Damages and Benefits.

SEC. 99. Upon the completion of such list, said board shall proceed to award the damages sustained, and to assess the benefits accruing to each piece of property on said list. When such assessments or awards are completed, said board shall cause a written notice to be served upon the owner of each piece of property, showing the amount of such assessment or award, by leaving a copy of the same at his last usual place of residence, in such city, or by delivering a copy to such owner personally. If such person be a non-resident, or his residence shall be unknown, then he shall be notified by publication in some daily newspaper of general circulation in such city, once each week, for three successive weeks. Such notices shall also name a day, not earlier than ten days after service of notice, or after the last publication, as the case may be, on which said board shall receive or hear remonstrances from persons with

regard to the amount of their respective awards or assessments. Persons not included in the list of such assessments or awards, and claiming to be entitled to the same, shall be deemed to have been notified of the pendency of the proceedings by the original notice of the resolution of the board.

Minors and Insane Persons.

SEC. 100. In case any person having interest in land affected by such proceedings shall be of unsound mind or an infant, said board of public works shall certify the same to the city attorney, and said city attorney shall forthwith apply to the proper court and secure the appointment of a guardian for such infant or person of unsound mind; and thereupon said board shall give notice to such guardian, who shall thereupon appear and defend the interest of his ward: *Provided,* That if such infant or person of unsound mind already have a guardian such notice may be served on such guardian. The requisites of notice to such guardian shall be the same as in case of other notices. If there be a defect in the proceedings with respect to one or more interested persons, the same shall not affect such proceedings except so far as it may touch the interest or property of such person or persons, and shall not avail any other person concerned therein. In case of such defect, supplementary proceedings of the same general character as those heretofore prescribed may be had in order to supply the same.

Remonstrance—Appeal.

SEC. 101. Any person notified, or deemed to be notified, under the preceding sections may appear before such board on the day fixed for hearing such remonstrances with regard to awards and assessments, and remonstrate against the same. After such remonstrances shall have been received, said board shall thereupon either sustain or modify the awards or assessments in case of such remonstrances, but in no other case. Any person thus remonstrating who is aggrieved by the decision of the board may, within twenty days thereafter, take an appeal to the circuit or superior court in the county in which said city is located. Such appeal shall affect only the assessment or award of the person appealing.

Appeal—How Taken.

SEC. 102. Such appeal may be taken by filing an original complaint in such court against such city within the time named, setting forth the action of the said board of public works in respect to such assessment, and stating the facts relied upon as showing an error on the part of such board. Such court shall rehear the matter of such assessment de novo, and confirm, lower or increase the same as may seem just. In case such court shall reduce the amount

of benefit assessed against the land of such property holders, or increase the amount of damages awarded in his favor, the plaintiff in such suit shall recover costs, otherwise not. The judgment of such court shall be final, and no appeal shall lie therefrom.

Assessment Roll—Liens.

SEC. 103. On the completion of such assessment roll by said board of public works, the same shall be delivered forthwith to the department of finance, and from that time the respective amounts of benefits therein assessed shall severally be liens, superior to all other liens except taxes, against the respective lots or parcels of land upon which they are assessed. Said department of finance shall at once prepare a duplicate of said assessment roll of benefits, the same to be known as the local assessment duplicate, and deliver the same to the treasurer. The duties of the treasurer and the department of finance in respect thereto shall be the same as are hereinafter more specifically prescribed with regard to assessments for street improvements.

Assessments—When Due—Collection.

SEC. 104. Said assessments of benefits shall be due and payable to the treasurer from the time of the delivery of said assessment duplicate to said treasurer. If not paid within sixty days thereafter, the said city by its attorney shall proceed to foreclose said liens in a court of competent jurisdiction as mortgages are foreclosed, with similar rights of redemption, and have the same sold to pay such assessments. Such city shall recover costs, with a reasonable attorney's fee, and interest from the expiration of the sixty days hereinbefore allowed for payment, at the rate of six per cent. per annum. In all cases where the party against whom the assessment is made is a resident of such city, demand for the payment of the same shall be made by delivering to him personally, or leaving at his last or usual place of residence a notice of such assessment and demand for payment.

What Damages Paid by City.

SEC. 105. Said board of public works shall have power to determine, what, if any, part of the damages awarded shall be paid out of funds appropriated for the use of such board by the common council: *Provided,* That no more than two thousand dollars in damages shall be paid out of the city funds for any improvement or condemnation, unless pursuant to an ordinance appropriating for the specific improvement or condemnation. All benefits assessed and collected by the treasurer shall be subject to draft, in the usual manner, upon certificate by the board of public works in favor of persons in whose favor damages have been awarded.

Any surplus remaining above actual awards shall belong to such city. Said board may delay proceedings until such benefits have been collected.

Certificates for Damages.

SEC. 106. It shall be the duty of the board of public works, upon the completion of the award of damages, or whenever any time for delay as above mentioned shall have expired, to make out certificates for the proper amounts and in favor of the proper persons, upon the presentation of which to the head of the department of finance such persons shall be entitled to a warrant on the city treasury. Such certificates or vouchers shall, whenever practicable, be tendered actually to persons entitled thereto, but where this is impracticable the same shall be kept for such person in the office of the board of public works, and the making and fixing of such certificate shall in all cases be deemed to be a valid and effectual tender to the person entitled thereto, and the same shall be delivered to him on request. In case of a dispute or doubt as to which of the various persons said money shall be paid, said board shall make out such certificate in favor of the city attorney for use of the persons entitled thereto, and said attorney shall thereupon draw the money and pay the same into court in a proper proceeding, requiring the various claimants to interplead and have their respective rights determined. In any case where an injunction is obtained because damages have not been paid or tendered, said board may tender such certificate for the amount thereof with interest from the time of entry upon the property, if any has been made, and all accrued costs, and thereupon the injunction shall be dissolved. The pendency of an appeal shall not affect the validity of a tender made under this section, but such city shall be entitled to proceed with its appropriation of the property in question.

Order for Improvements—Notice—Materials.

SEC. 107. Whenever the board of public works shall order the improvement of any street, alley, sidewalk, or other public place in such city, in whole or in part, it shall adopt a resolution to that effect, setting forth a description of the place to be improved, and full details, drawings and specifications for such work. Notice of such resolution shall be published, which notice shall state that on the day named the board will hear all persons interested, or whose property is affected by the proposed improvements, and will decide whether the benefits that will accrue to the property to be assessed, abutting and adjacent to the proposed improvement and to said city, will be equal to or exceed the estimated cost of the proposed improvements. And a like notice shall be sent by mail to

each property owner affected by the proposed improvement: *Provided,* That the mailing the said notices to the names of owners as they appear on the assessor's books of the county in which the land is located shall be considered a compliance with this requirement: *Provided, further,* That nothing contained in this section shall affect the legality of the proceedings. On the day named, all of said persons who appear before said board shall be given a hearing on the said subject. The city engineer shall, on or before the day set for hearing, file with the said board his estimate of the total cost of said work, and no contract shall be let under such resolution which shall be more than ten per cent. in excess of such estimate. Nor shall any contract be let for the improvement of any street, alley, or other public place, in any city of the first, second or third class, the total cost of which shall exceed fifty per cent. of the aggregate value of the property as it is assessed for taxation, exclusive of the improvements, and subject to be assessed, to pay for said proposed improvement. If said board shall decide that the benefits, including the benefits, if any, to said city, are equal to or exceed the estimated cost of the improvements as aforesaid, such finding shall be entered of record and shall be final and conclusive on all parties. And said original resolution may be modified, confirmed, or rescinded in the same manner as hereinbefore specifically provided by this act with regard to the condemnation of property and the opening of streets: *Provided, however,* That if at any time between the date of the adoption of the resolution and the day appointed for modifying, confirming or rescinding said resolution, there shall have been filed in the office of said board of public works a petition or petitions in writing, of a majority in number of resident freeholders upon such street or alley sought to be improved, requesting that said street or alley be paved with any certain kind of the accepted kinds of modern city pavement, then the board of public works shall not have the power or authority to pave said street or alley, or any part thereof, with another kind of material, unless the same is specifically ordered by an ordinance passed by a two-thirds vote of the council of said city. If such original resolution be confirmed or modified, it shall be final and conclusive on all persons, unless, within ten days thereafter, a majority of the resident freeholders upon such street or alley, or proposed improvement, remonstrate against such improvement. In case of such remonstrance, the improvement shall not be made unless specifically ordered by an ordinance within sixty days thereafter, passed by a two-thirds vote of the council and approved by the mayor.

Cost of Improvements.

SEC. 108. If said board or common council shall finally order such improvement, and shall have advertised for bids, they shall require each bidder to deposit with their respective bids, a certified check for an amount not less than two and one-half per cent. of the engineer's estimate of the cost of such improvement, to insure the execution of the contract for which such bid is made, provided, that such check shall in no case be for less than one hundred dollars, and if such board let the contract for the same, the cost of any street or alley improvement shall be estimated according to the whole length of the street or alley, or so much thereof to be improved as is uniform in the extent and kind of the proposed improvement per running foot, and the total cost thereof, exclusive of one-half the cost of street and alley intersections, shall be apportioned upon the lands or lots abutting thereon. The remaining one-half of the cost of street and alley intersections shall be apportioned upon the lands or lots abutting on the street or alley intersecting the street or alley under improvement, for a distance to the street line of the first street intersecting or extending across the said intersecting street or alley in either direction from the street or alley improved: *Provided,* That in case of intersections with diagonal streets or avenues the remaining one-half cost of each intersection shall be apportioned on the lands or lots abutting on each of the intersecting streets for a distance to the street line of the first street intersecting or extending across each of said intersecting streets in each direction from the street improved. Should a street or alley enter into and not cross the street or alley under improvement, then the assessment for the cost of one-half of said entering street or alley, measured to the center line of the street or alley under improvement, shall be made on the lots or lands abutting on said entering street or alley, for a distance to the street line of the first street intersecting or extending across the said intersecting street or alley, and such last named assessment shall be made pro rata upon the lots or lands abutting on said street or alley: *Provided, however,* That if it may be deemed necessary by the board of public works to improve only a part, or one side of any street, or other public place in such city, then one-half of the cost of such improvement shall be assessed against and paid by such city, and the remaining one-half of the cost thereof shall be assessed against the land or lots abutting upon and adjacent to such half or side of the street or alley so to be improved, as now provided by law: *Provided, also, however,* That when the board of public works orders the improvement of any sidewalk, the cost of the same shall be estimated according to its whole

length, including the street and alley intersections, and shall be apportioned upon the lots or lands abutting thereon. Such assessment shall be made without regard to the assessment for taxation, as hereinafter provided. Such city shall be liable to the contractor for the contract price of such improvement, to the extent of the moneys actually received by such city from the assessments for such improvements hereinafter provided for, and the owners of property bordering on such street or alley shall be liable to the city for their proportion of the cost, exclusive of one-half the cost of street and alley intersections, in the ratio of the front line of their land or lots, whether platted or not, owned by them, to the whole cost of the improvement for that part of the said street or alley on which said land or lots are located, and which is uniform in extent and quality of improvement. And the owners of lots or land on the streets or alleys intersecting or entering into such street or alley, shall be liable to the city for their proportion of the cost of improving the one-half of the street and alley intersections, in the proportion that their front line on said street or alley bears to the sum of the length of the front lines of said lots or lands abutting on said street or alley for a distance, as provided above, from the street or alley under improvement. Said city shall have separate and several liens upon such lands or lots from the time the contract for such improvement is finally let, for the respective assessments against each lot or parcel of land.

Assessments—Extent—Lien.

SEC. 109. Lots, parcels and tracts of land bordering on such street or alley to be improved or being improved shall be assessed primarily on the basis set forth in the preceding section of this act, without regard to the depth of said lots, tracts, or parcels, back from the front line of said street, but upon the final hearing before the board of public works as to the actual benefits to abutting and adjacent property, as provided by other sections of this act, the said board shall have the power to assess other property back of the first lot if such lot is less in depth than one hundred and fifty feet from the line of the street to be improved, if said board shall find at said hearing that properties back of said abutting lot and within one hundred and fifty feet of the street being improved are benefited to a greater extent than merely for their share for street and alley intersections, but only the amount which said board shall decide at said hearing said lands or lots are severally benefited. Lots or lands bordering on said street, alley, or other public place that is being or has been improved, or adjacent thereto, shall be liable to the payment of the assessment as set forth on the final assessment roll. This section shall be deemed to include the final

assessment, principal and interest, together with costs of foreclosure and a reasonable attorney's fee. The lien of the same shall have the precedence over all liens except taxes. In all suits brought to foreclose such liens, the plaintiff shall recover the amount of the assessment, principal and interest, together with a reasonable attorney's fee, and the court shall order that sale shall be made without relief from valuation or appraisement laws. The sheriff shall make sale without relief from valuation or appraisement laws as lands are sold upon execution, and within five days after such sale shall execute a certificate to the purchaser, which certificate shall vest title in the purchaser on the delivery thereof, subject only to the right to redeem as herein provided. Suits to foreclose may be brought by any contractor entitled to enforce any liens, or any assessment or assessments against person or persons who have made default in payment thereof or by his assignee. No sale shall be ineffective because of any irregularity or error or mistake of any officer in making the same, unless it be made to appear that such error or irregularity substantially prejudiced the property owner. Foreclosure suits may be instituted for the enforcement of assessments and liens as herein provided by the holder of any bonds or coupons in cases where bonds are issued in anticipation of the collection of assessments against a party or parties in default, for the collection of such bonds or coupons and the enforcement of the lien or assessment securing the same, as well as by any contractor or his assignee where no bonds are issued. In such foreclosure suits no defense shall be allowed upon any irregularity in the proceedings making, ordering or directing such assessment, nor shall any question as to the propriety or expediency of any improvement or work be therein made. A property owner who has not, or property owners who have not, signed a waiver, or exercised or claimed the option to pay in installments may, however, contest the amount of his or their assessments: *Provided,* That the question of special benefits shall be deemed conclusively determined by and in the proceedings before the board of public works as in this act elsewhere prescribed. Where a property owner, or property owners, has or have exercised the option to pay in installments, and has or have signed a waiver or exercised the option to pay in installments, such property owner or owners shall be concluded thereby, and shall not be permitted to set up any defense whatever. It shall not be necessary in any such foreclosure suit or suits to set forth or refer to the proceedings at length or specifically, but it shall be sufficient to state in such complaint the day on which the contract was finally let, the name of the street or highway improved, the amount and date of the assessment, that the assessment is unpaid, and a description of the lot or property upon which the assessment was levied.

A property owner, or property owners, shall have one year from the date of sale in which to redeem therefrom, and shall be entitled to redeem from such sale upon paying principal, interest, and cost of the judgment, together with eight per cent. per annum interest thereon. If no redemption is made, then, and in that event, the sheriff shall execute a deed to the purchaser, which deed shall relate back to the final letting of the contract and shall be paramount to all liens, claims and interests of every nature whatsoever, except liens for taxes. It is hereby declared that the provisions hereof are intended to and do give a remedy to all persons, contractors, assignees, and bond or coupon holders for the enforcement or collection of claims and liens for assessments for street improvements, the construction of sewers or drains under this act, or any acts in relation thereto, governing cities of first, second, third, fourth and fifth classes and do regulate and provide for matters of procedure and things appertaining thereto. No mistake in the description of property or in the name of the owner shall vitiate such assessments or liens. If, before ordering such improvements, any land or lots have already an improvement in front of them conforming to the general plan, said board shall make an allowance to said owner thereof, to be deducted from his assessment and from the total amount of the contract price.

Payment by Installments.

SEC. 110. Whenever the board of public works shall order the improvement of any street or alley as provided in the preceding sections, the assessment for said improvement may, at the option of each property holder, be payable in ten annual installments, as follows: Ten per cent. of the principal, together with all accrued interest on the entire assessment on or before the third Monday of April next succeeding the allowance of the final estimate on such work by said board, except where such estimate has been made between March 15 and October 1 of any year, in which case such first installment shall be payable on the first Monday of November next succeeding such estimate. The next payment on said assessment shall be six months' interest on the unpaid principal, payable at the date of the general payment of taxes, either spring or fall, as the case may be, next after the first installment on such assessment falls due. The next payment on said assessment shall be ten per cent. of the original principal and six months' interest on the unpaid principal, payable on or before the date for the general payment of taxes, spring or fall, as the case may be, accruing one year after the first installment was payable and so on thereafter, ten per cent. of the original principal with six months' interest on the unpaid principal once each year and six months' interest in alternate turn with each

annual payment of principal and interest until the entire principal and interest have been paid. Interest not exceeding six (6) per cent. per annum shall be specified by said board, in the resolution for improvements and shall commence from the date of allowance of such final estimate.

Assessment Roll to Finance Department—Remonstrance, Etc.

SEC. 111. In making assessments against each lot or parcel of land said board of public works shall, as soon as any contract for the improvement of any street or alley has been completed, cause to be made out an assessment roll with names of property holders and description of the property abutting on and adjacent to the improvement, which are liable to assessment under other sections of this act. Said assessment roll shall also have set opposite each name and description the total assessment, if any, against each piece of property, which assessment shall be determined according to the provisions of the other sections of this act. The charge or assessment against each lot, tract, or parcel of land, so made and indicated on said roll, shall be prima facie the special benefit to such lot, parcel, or tract of land, by reason of the improvement for which said assessment was made, and shall be the final and conclusive assessment against said lots, parcels, or tracts, unless the same is changed, or an assessment made, in the manner hereinafter provided, to wit: Immediately after said assessment roll is completed and filed, the said board shall cause to be published in some daily newspaper of general circulation, published in said city, for one week, a notice, which shall describe the general character of the improvement, the street, alley, or public place on which it has been made, the terminals of the improvement, the intersecting streets and alleys and parallel streets and alleys, if within 150 feet of the street or alley to be improved, on which there is property benefited and liable to assessment. Such notices shall also state that the assessment roll, with the names of owners and descriptions of property subject to be assessed, with the amounts of prima facie assessment, if any has been made, is on file and can be seen at the office of the board of public works. Such notice shall also name a day after the date of the last publication on which the said board will, at its office, receive and hear remonstrances against the amounts assessed against their property respectively on said roll, and will determine the question as to whether such lots or tracts of land have been or will be benefited by said improvement in the amounts named on said roll, or in a greater or less sum than that named on said roll, or in any sum, at which place and time all owners of such real estate may attend, in person or by representative, and be heard. On the date so fixed, the board shall receive and hear all re-

monstrances, as stated in such notice. After said hearing, said board shall either sustain or modify, in whole or in part, the prima facie assessment as indicated on said roll, either by confirming the prima facie assessment against any or all lots or tracts described in said roll, or by increasing or reducing the same, according to the special benefits which said board decides each such lot or tract of land has received or will receive on account of such improvement. If any property within the benefit district is omitted primarily from said roll, or a prima facie assessment has not been made against it, said board may place on said roll the special benefit to such omitted lot or tract of land which it has or will sustain by such improvement, if any. The board shall have the power to determine what, if any, part of the benefits has been or will be received by said city, and, when determined, the said amount, if any, shall be paid by said city out of any fund appropriated for the use of said board by the common council: *Provided,* That not more than five thousand dollars shall be paid out of the city funds for any improvement, unless pursuant to an ordinance appropriating for a specific improvement. The board shall complete said roll and render its decision as to all benefits by modifying or confirming said assessment roll to conform to its findings, showing the total amount of special benefits opposite each name and description of each piece of property on said roll. When completed, said assessment roll shall be delivered to the department of finance. The decision of such board as to all such benefits shall be final and conclusive: *Provided,* That if the owner of any lot or parcel of land so assessed as aforesaid, shall, within ten days from the completion of said assessment roll, by his written verified petition to the circuit or superior court of the county in which said city is situated, show that the amount so assessed against such lot or parcel of land is excessive, and that such real estate is not benefited by said improvement in such amount, the court shall, without delay, appoint three disinterested freeholders of said city to reassess such benefits, if any there be, accruing to the real estate described in such petition. Such appraisers shall at once take an oath before the clerk of said court that they will faithfully, honestly and impartially discharge the duties required of them, and proceed forthwith to view the proposed improvement and the real estate described in such petition, and report in writing to said court within three days after viewing such improvement and premises whether the said assessment complained of exceed the special benefits to said property, and if so, in what amount, if any, such real estate is or will be specially benefited by such improvement, and such appraisers may grant a hearing to complainants. Such report shall be entered as a judgment

upon the records of said court, and a copy thereof filed by such appraisers with the said board, and such report shall be final and conclusive on all parties thereto. If it be found in such report that the assessment against such lot or tract is excessive, then the said board shall have power to order the payment of such excess out of any funds which may have been, or may be, appropriated to its use by the common council of such city. Such appraisers shall each be entitled to be paid three dollars per day for every full day in which they are engaged in such service. The cost of any such proceeding, including the compensation of such appraisers, shall be paid by the party complaining of such assessment, unless the said assessment is reduced ten per cent. by said appraisers, and judgment shall be rendered against him for the amount of such costs. In case such assessment shall be reduced ten per cent. or more in such proceeding, such costs and expenses shall be paid by said city out of any fund appropriated by the common council for that purpose, and such common council shall make all necessary appropriations to enable said board to make all payments provided for in this section. The delivery of the assessment roll to the department of finance, as hereinbefore provided, shall not be delayed on account of such proceeding, nor shall the rights of any of the property holders be affected thereby. In case any assessment is reduced in such proceedings, the board of public works shall certify such corrections to the treasurer, who shall enter the proper amounts of such assessment on said roll. In the event that there be defects or irregularities in the proceedings with respect to one or more interested persons or property, the same shall not affect such proceedings, except as to the persons or property, if any, as may be thereby affected, and shall not avail any other person or persons whatsoever. In case of such defect, supplementary proceedings of the same general character as those hereinbefore described may be had to correct, remedy or supply the same.

Duplicate Assessment Roll on Work's Completion.

SEC. 112. Whenever the board of public works shall approve and accept the entire work under any contract and allow a final estimate therefor, it shall be the duty of the department of finance to forthwith deliver to the treasurer a certified copy of the assessment roll. Such duplicate assessment roll shall be known as the local assessment duplicate, and shall be appropriately prepared, showing the amount due on each piece of property, if paid in cash within the time limited, together with the necessary column, in which such assessment shall be extended, showing the amount of each installment, and when payable, whenever the same shall be paid in installments, together with the interest due at each spring

and full payment of names, until the same shall be fully paid. Said book shall also have appropriate columns in which payments may be properly credited, and also the place for the satisfaction of the lien by the treasurer. All assessments, whether payable in installments or not, shall be payable to the treasurer, whose duty it shall be to receive the same and give proper receipts therefor and enter the proper credit and satisfaction in said book or duplicate assessment roll. Upon receipt of the certified copy of the assessment roll by the treasurer, it shall at once become his duty to notify each person affected by the same, of the amount of the assessment against him by placing in the postoffice in such city a notice addressed to such person. The treasurer shall also, on the first Monday in each month, give notice in some newspaper of general circulation, to persons who have failed to take advantage of the opportunity to make payment of assessment made against him in ten annual installments, to pay in cash the amount of said assessment within thirty days from the date of the approval of final estimate by the board of public works, by publishing a description containing the name of such person, the name by which the improvement is known and the amount owing by each person, and a statement to the effect that unless such assessment is paid within thirty days suit will be instituted for recovery of the amount due. The treasurer shall add to the amount due from each person so notified twenty cents for each tract or parcel of land mentioned in the advertisement, and collect the same to cover the cost of such advertisement, and such sums shall be added to the amount due from each person and shall be included in and covered by the lien of the assessment.

Installment Payments—Waiving Errors—Paying Before Due.

SEC. 113. Whoever desires to exercise such privilege of payment by installment shall at any time before the expiration of thirty days after the allowance of the final estimate aforesaid, enter into an agreement in writing, that in consideration of such privilege he will make no objection to any illegality or irregularity with regard to the assessment against his property and will pay the same as required by law with the specified interest. Such agreement shall be filed in the office of the department of finance. In all cases where such agreement has not been signed and filed within the time limited, the entire assessment shall be payable in cash without interest before the expiration of said thirty days. After said thirty days, if not paid when due such total assessment shall bear interest at the rate of six per cent. from the date of the final estimate. Persons signing and filing the agreement within the time limited, and entitled to pay in installments, may, nevertheless, at any time after the expiration of

the first year, pay up their entire assessment and stop the interest thereon, and be relieved of the lien of the same, on condition that they at the same time pay up all accrued interest, and also interest up to the time the next installment of interest is payable: *Provided,* That before such person shall be entitled to make such prepayment he shall give notice in writing at the treasurer's office of his intention so to do, six months in advance of the time when such payment is made.

Treasurer—Duty—Separate Accounts.

SEC. 114. It shall be the duty of the treasurer to receive the same, keep all account thereof and give proper vouchers therefor. The department of finance shall charge the treasurer with the amounts of such assessments and interest as it accrues. The department of finance shall carefully keep a separate account of the fund arising from each particular improvement ordered by the board of public works pursuant to this act, and no proceeds arising from assessments for the improvement of any particular street or alley shall be diverted to the payment of any other improvement whatever. The proceeds shall in each case constitute a separate special fund for the payment of contractors for the particular work upon the allowance of estimates by the board of public works or for the security and payment of street improvement bonds, if any are issued, as hereinafter provided for such street or alley.

Street Improvement Bonds.

SEC. 115. For the purpose of anticipating the collection of such assessments the department of finance shall issue street or public improvement bonds, payable out of the funds actually paid to and collected by such city on such account, the proceeds of the same to be applied exclusively to payment for the improvements on the particular street or alley for the anticipation of the assessment for which the same are issued. Bonds shall be issued for the principal of such assessment or assessments and appropriate coupons shall be attached thereto evidencing and representing the semi-annual interest. Each bond shall be issued for a sum not exceeding five hundred dollars, and the coupons thereto attached shall evidence and represent the semi-annual interest thereon. The bonds shall bear interest at a rate not exceeding six per centum per annum, to be computed from the date of the final estimate, which interest shall be payable semi-annually as herein provided. The bonds shall form a series numbered from one to ten, inclusive, and shall be payable annually, but the interest shall be payable semi-annually. In cases where the final estimate is allowed at any time during the period intervening between the

first day of March and the first day of October in any year, the bonds and coupons shall be dated on the first day of December of such year, and in all cases where the final estimate is allowed at any other period in any year than that intervening between the first day of March and the first day of October in any year, the bonds and coupons shall be dated on the first day of June following. The interest shall be computed from the date of the final estimate up to the date of such bonds, and the coupons shall properly evidence and provide for such interest computed as aforesaid from the date of the final estimate. Each bond shall bear the name of the street or alley for which it is issued, in cases where issued for street improvement assessments, and in cases where it is issued for sewer or other assessment, and shall appropriately designate the improvement or work for which it is issued: *Provided, however,* That any contractor, or his assigns, may at his option, demand and have issued him a bond, with coupons against each person's property, who shall have elected to pay in installments, covering the assessment against such person's property; such bond shall be payable in installments, with interest as heretofore provided, and such installments of principal and of semi-annual interest shall be evidenced by appropriate coupons attached to the same. Assessments in cases where the option to pay in installments is exercised, shall be payable as follows: Ten per centum of the principal, together with all accrued interest on the same, on the third Monday of April next succeeding the allowance of the final estimate on such work by the board, except where such estimate has been made between March 1st and October 1st of any year, in which case such first installment shall be payable on the first Monday of November next succeeding such estimate; the next payment shall be six months' interest on the entire unpaid principal at the date for the general payment of taxes, either spring or fall, as the case may be, next after the first installment falls due; the next payment shall be ten per centum of the original principal and six months' interest on the unpaid principal, payable on or before the date for the general payment of taxes, spring or fall, as the case may be, occurring one year after the first installment was payable; and so on thereafter ten per centum of the original principal, with six months' interest on the unpaid principal, once each year, and six months' interest on the unpaid principal in alternate turn with the annual payment of principal and interest, until the entire principal and interest have been paid. It being hereby intended and provided that installments of principal and interest shall be paid in advance of the maturity of bonds and coupons in order to enable the treasurer to pay such bonds and coupons as they respectively fall due, for which pur-

pose the said treasurer shall hold the money paid to him. It shall be the duty of the treasurer to promptly and properly apply all money paid in on such installments to the holders of the bonds and coupons, and he shall not use the money received by him in payments of such installments for any other purpose whatever than of paying the bonds and coupons, and he shall promptly ascertain the amount paid in on such installments and without delay pay the same to the bond and coupon holders entitled thereto. In case any person shall exercise his right of prepayment of his assessment, as by law provided, and shall fully pay such assessment and interest, all interest and liability shall thereupon cease as to the property upon which the assessment so paid is levied. The liens against property shall be extinguished as rapidly as the treasurer shall collect funds, by reason of such prepayment and the funds so collected shall be applicable to the outstanding bonds and coupons in the order of their serial numbers, and interest thereon shall cease pro tanto from the time of such collection. It shall be the duty of the treasurer promptly to pay to the person presenting a bond or coupon such sum as may be applicable to the payment thereof, out of any prepayment or prepayments. It shall be the duty of the treasurer, in case prepayments are made, to notify the bond or coupon holders, in cases where such coupon or bondholders are known, or to give written notice to the person who presents such bonds or coupons, and where such bond or coupon holders are not known or such bonds or coupons are not presented, then to notify the contractor by whom the improvement was made. In cases where property owners are in default or become delinquent in the payment of any installment, the treasurer shall forthwith notify, in writing, the holder of such bond or coupon, where such bond or coupon holder is known, of such default or delinquency; if such bond or coupon holder is not known, then a like notice shall be given to the contractor. Coupon holders or bondholders who shall furnish their names and addresses to the treasurer and a general description of the bonds and coupons held by them shall be entitled to written notice from the treasurer. Such notice shall, by the treasurer, be properly addressed and mailed. The treasurer shall keep a register of all coupon holders and bondholders who may furnish him a description of their coupons or bonds and their names and addresses. It shall be the duty of the treasurer, in all cases where any property owner is in default in the payment of any installment, or any part thereof, chargeable upon or against his property, to add a penalty of twenty per centum upon any installment, or any part thereof, for such delinquency, which said penalty, when collected, shall be and become the property of such city. And

the treasurer shall on the first day of January, of each year, certify to the county auditor a list of such delinquency or delinquents. And the county auditor, in making out the list of lands and lots in such city returned and remaining delinquent for state, county, township, road, city, school, and other taxes, which he is required by law to make between the first Monday of November and the first day of January, in each year, shall enter therein against the name of each person remaining delinquent on account of state, county, township, road, city, school, and other taxes, for which said lands are liable, the amount of such delinquent special assessments so certified to him by the treasurer, as aforesaid, against the lands and lots described in such certification of the treasurer, which said assessments shall be carried out with the taxes for state, county, township, road, city, school, and other purposes, into one total. Payment of such assessments, with interest, penalty and costs, shall be enforced by sale of the lands and lots liable therefor, or so much thereof as may be necessary, which sale shall be made by the county treasurer in the same manner, at the same time and place, and upon the same notice as is prescribed by law for the sale of lands and lots, for the payment of delinquent state, county, township, road, school, city, and other taxes, the property to be offered for sale and sold for the payment of all the taxes and assessments of every kind, for which the same is liable, with interest, penalty and costs thereon, as one entire sum, and not separately for said assessments. Nor shall notice of the sale be given separately for the said assessments, but it shall be stated in the notice required to be given of the sale of the lands and lots for state, county, township, road, city, school, and other taxes, that the sale thereof will also be for the payment of the delinquent municipal assessments of the city, which shall be the only notice required to be given. Payments of the bids, upon the sale of any such lands and lots, shall be enforced, so far as it relates to such municipal assessments, together with the penalties above provided for, by the same officer, and in the same manner, as is provided for by law for the enforcement of the payment of a bid made upon the sale of lands and lots for the state, county, township, road, city, school, and other taxes, and the proceeds of sale shall be held by the treasurer and paid to the parties entitled thereto. The guarantee required by law to be endorsed by the county treaurer upon each certificate given by him upon a purchase of lands and lots, for state, county, township, road, city, school, and other taxes, shall, in every case where such sale is made for said municipal assessments, also apply to and embrace the amount of such municipal assessments for which sale was made; and the holder of such certificate shall have the same

remedy upon such guaranty as to municipal assessments, embraced therein, that he has as to the state, county, township, road, city, school, and other taxes, to which the same relates. All provisions of law in reference to the certificate to be issued to a purchaser of lands and lots upon sale for state, county, township, road, city, school, and other taxes; the effect of such sale, and the rights of the purchaser; redemption therefrom; the making of deeds upon failure of redemption, and as to the force and effect of such deeds; for the quieting of titles acquired thereunder; for transferring to the purchaser the original lien for the taxes and municipal assessments for which the sale was made, and subsequent assessments paid; and for the enforcement of such lien by judicial proceedings, when the purchaser fails to acquire a valid title by virtue of the purchase; and as to the interest and penalties to be collected upon redemption from such sales before deed is made, or upon judicial proceedings to quiet the title or enforce the lien of the purchaser; and all other provisions of law relating to the collecting and accounting for state, county, township, road, city, school, and other taxes, shall, so far as the same are applicable, apply with like force and effect in the case of municipal assessments in cities of the class referred to in this act. Said board may provide in its original resolution of improvement for the issue of such bonds and coupons directly to the contractor, in which case it shall be the duty of the department of finance, upon the allowance of the final estimate made by the board of public works to issue the same directly to the contractor, otherwise they shall be issued and sold as other city bonds. After the issue of such bonds no suit shall lie to enjoin the collection of any assessment, and the validity of the same shall not be questioned, but all property owners shall be conclusively estopped and precluded from in any manner assailing the effectiveness or validity thereof. Such bonds, when issued, shall convey and transfer to the owner thereof all lien, right, title and interest in and to the assessments and liens upon the respective lots or parcels of ground hereinbefore provided for, which liens shall stand as security for such bonds and coupons until they are paid, with full power to enforce the collection thereof, if such bond or coupon be not paid on presentation to the treasurer, by foreclosure in any court of competent jurisdiction as provided in the preceding section, and sales to satisfy such bonds and coupons shall be made as hereinbefore provided for sales upon judgments or decrees foreclosing liens for assessments levied for street improvements: *Provided,* That the first bondholder who institutes foreclosure suit in any court of competent jurisdiction against such property, or any lot or parcel thereof, shall be entitled to have the proceeds of said suit applied

pro rata to the payment of his own bonds and of bonds held by others. The property upon which the assessment is laid shall in no event be sold for less than the amount of the assessment, attorney's fees and costs, and the avails of the sale shall be distributed as herein provided. If the property shall sell for more than enough to pay the principal, interest, attorney's fees, costs and expenses the surplus shall be paid to the property owner or party lawfully and rightfully entitled thereto. No more than one foreclosure suit shall be brought against any one lot or parcel of land, but all lots or parcels of land, the assessments against which are in default, may be joined in one proceeding. All bonds as herein provided shall be negotiable as inland bills of exchange, and be free from all defenses, by any property owner or property owners. It shall not be necessary in said bonds to recite the steps taken in ordering such improvement or directing the assessment, but it shall be sufficient to make a general reference to such assessment and to the statute.

Failure to Pay Installments—Effect—Notice by Treasurer.

SEC. 116. Failure to pay any installment of principal or interest when the same is due, shall bring all installments of principal yet unpaid forthwith due and payable. If such city shall fail to collect any unpaid assessment or installment thereon when due, no liability shall thereby accrue against such city, but the owner of the bonds hereinbefore provided for, or in case no bonds have been issued, then the person to whom is due and owing the amount of such unpaid assessment for the performance of such work shall have the right to proceed in any court of competent jurisdiction, to enforce the liens or unpaid assessments, recovering interest, costs and a reasonable attorney's fee, and to have the proceeds of sale applied to his claim: *Provided,* When any person shall default in the payment of any installment of principal or interest, it shall be the duty of the treasurer to mail a notice of such delinquency to such person, who shall have thirty days from the date when the same was payable to pay such installment with a fee to such treasurer of twenty-five cents for sending such notice; but the failure to send such notice to any delinquent will not prevent the foreclosure of such lien after the expiration of such period of grace of ten days: *Provided, further,* Such attorney's fee to be so recovered shall not be more than five dollars, if the amount due shall be paid or tendered within ten days after service of the summons in such suit, or after notice by publication in cases of nonresidents, and in no case shall the attorney's fee exceed the amount of the assessment; if the amount due shall not be paid or tendered within said ten days, then the attorney's fees, in cases in which the assessment exceeds fifty dollars, shall not exceed ten

per cent. on the first one hundred dollars of the sum due, and five per cent. on the excess thereof: *And, provided, further,* In case the person from whom is owing an assessment shall not elect to pay installments, the person to whom such assessment is owing, at least ten days before bringing suit to foreclose as above, shall notify such person from whom the assessment is owing of the amount thereof, and that the same is or will become due. A notice mailed to the person whose name appears upon the assessment roll as the owner of the property, addressed to such person within such city, shall be deemed a sufficient notice. It shall be the duty of the county clerk to certify to the treasurer all satisfactions of assessment liens by such sale, and the treasurer shall enter the same of record. No action shall be maintained for such foreclosure which is not commenced within three years from the time when the right of action accrues. The provisions of this section, so far as applicable, shall apply to assessments for sewers, drains, levees, or for the change of any water-course, or the drainage of any section of ground.

Sewers and Drains—Establishing.

SEC. 117. Whenever the board of public works of any city of the first, second, third or fourth class shall order the construction of any local sewer or drain in such city, it shall adopt a resolution to that effect, setting forth a description of such sewer to be constructed, and full detail, drawings and specifications for such work. Notice of such resolution shall be published once each week for two consecutive weeks in some daily newspaper of general circulation in said city, which notice shall state that on the day named therein, the board will hear all persons interested, or whose property is or will be affected by the proposed improvement, on the question as to whether the special benefits that will accrue to the property to be assessed abutting on the line of such proposed sewer or drain will be equal to the estimated cost of the improvement. On the day named, any and all of such interested persons who may appear before such board shall have a full hearing on such question, and on any matter pertaining to said proposed improvement. The city engineer shall, on or before the day fixed for such hearing, file with the board his estimate of the total cost of said work, and no contract shall be let under said resolution which shall exceed such estimate. If said board shall, after such hearing, decide that the special benefits accruing to said abutting property are equal to the estimated cost of the improvement, such finding shall be entered of record and shall be final and conclusive on all parties, but if it be decided by said board, after such hearing, that such special benefits will not equal such estimated cost, then said board shall proceed no further

with such improvement under said resolution or under any resolution for the period of one year therefrom, unless it should decide that the said city is benefited in an amount sufficient to cover such discrepancy between the special benefits to the abutting property aforesaid and such estimated cost, in which case it may proceed with such improvement as hereinafter provided. After such hearing the said original resolution may be rescinded, confirmed or modified. If it be confirmed or modified, said board shall cause a notice to be published in some daily newspaper having a general circulation in said city once each week for two consecutive weeks, informing the public and contractors of the general nature of the work and of the fact that drawings and specifications thereof are on file in the office of the board and calling for sealed proposals for such work by a day therein named, not earlier than ten days after the first of said publication, and fixing such day or some day thereafter as the time when such proposals shall be opened and considered. Whenever any sewer or drain shall, from its size and character, be intended and adapted not only for use by owners of abutting property along the line thereof, but is also intended and adapted for receiving sewage from collateral drains already constructed or which may be constructed in the future, then the said board of public works shall cause to be prepared a map which will show thereon the exact course of such proposed sewer, its appurtenances and branches, if any, and which will clearly show by boundary lines the total area or district to be beneficially affected by such sewer and to be assessed for the construction thereof, and shall also prepare all necessary profiles, drawings and specifications for such work, which map, profiles, drawings and specifications shall be placed on file in the office of said board. The said board shall then adopt a resolution ordering the construction of such sewer, and publish a notice of the adoption thereof, as hereinbefore provided in the case of local sewers, which resolution and notice shall describe the general character of such sewer, its termini and general course, the boundary lines of the district or area to be drained thereby and assessed therefor. Such notice shall name a date after the last day of publication on which the board will receive and hear remonstrances from persons interested in or affected by the construction of such sewer, and will also hear and determine the question as to whether such district or area is properly bounded for the purpose of such drainage, whether other territory not included in such boundaries should be added to such district, or whether any of the real estate therein included should be excluded therefrom, and also will hear and determine the question as to whether the special benefits to the several lots and parcels of land within such area and to said city, by reason of such proposed

improvement, will be equal to the estimated cost of said improvement. On the day named all persons owning property within said district, who shall appear before said board and so desire, shall be fully heard, and may introduce evidence on the questions above set forth. The city engineer shall, on or before the day set for such hearing, file with the board his estimate of the total cost of such work, and no contract shall be let under such resolution which shall exceed said estimate. If the board shall decide after such hearing that the area or district to be drained is properly bounded, that the special benefits to the property within such district or area, and the benefits, if any, to the said city will be equal to the estimated cost of the improvement as aforesaid, such finding shall be entered of record, and shall be final and conclusive on all parties, and the said resolution shall be confirmed or modified; but if it be decided by the board, after such hearing, that the benefits as aforesaid will not equal such estimated cost, then said board shall proceed no further with such improvement under said resolution. In case the said board should, after such hearing, be of the opinion that the district or area described in the said resolution and notice should be enlarged by adding thereto other lots and lands which on such hearing may have been shown to be benefited by such sewer, then said board may adopt a supplementary resolution reciting such fact, and proceed thereunder with notice to the property owners in such added territory, published twice as aforesaid, which notice shall describe the proposed sewer as aforesaid, set forth the boundaries of the original area or district and describe the boundaries of the said territory proposed to be added thereto, and fixing a date after the last day of said publication when the owners of property in said added territory may be heard on the question as to whether such new territory or any part thereof ought to be incorporated into such original area or district. On the day named the owners of the lots or lands situated in said territory proposed to be added as aforesaid shall, if they appear, be fully heard by said board on the said question and the decision of said board shall be final and conclusive as to all parties in such territory. If the original resolution shall be confirmed or modified as aforesaid, then the board shall proceed to advertise for proposals and open and consider the same in all respects as hereinbefore provided in the construction of a local sewer or drain.

Cost of Sewers—How Paid.

SEC. 118. Whenever any such sewer shall, from size or character, be intended and adapted only for local use by property owners along the line of the street, alley or other public grounds on which it is constructed and, in the opinion of the board of public

works, is not intended or adapted for receiving sewage from collateral drains, then, in that case, the lots, parcels and tracts of land so abutting shall be assessed primarily for the cost of such improvement, and such cost shall be primarily estimated according to the total number of square feet of property abutting on the line of said sewer, and such costs shall be primarily apportioned on the lands or lots abutting thereon in the proportion that their areas, respectively, bear to the total assessed area: *Provided,* That in making such primary or preliminary assessment against any unplatted land the depth of the same from the front line thereof shall not be assessed greater than two hundred feet nor less than the depth of the platted lots next adjoining such unplatted ground nearest to the center of the city: *And, provided, further,* That whenever any lot or parcel of land which abuts on two or more streets or alleys or on one street and one alley has already been assessed for a local sewer constructed in any such street or alley, such board shall, in making any assessment, preliminary or otherwise, against such lot or parcel of land, take into consideration the amount of such previous assessment. In case any unplatted ground borders upon two streets or alleys intersecting each other and assessments have already been made against such land for a sewer on one side, such assessment extending back for a distance as prescribed above, then, in that case, the preliminary or primary assessment shall be made for a distance of but fifty feet back from the line of the street or alley in which the sewer being constructed is located.

When Costs Divided.

SEC. 119. Whenever, in the opinion of such board of public works, any sewer or drain ordered to be constructed or any enlargement of one already constructed shall, from its size and character, be intended and adapted not only for use by abutting property holders along the line of such drain or sewer, but is also intended and adapted for receiving sewage from collateral drains already constructed, or which may be constructed in the future, then, in that case, such board shall make a division of the cost of such work. So much of such cost as shall be equivalent to the cost of construction of an adequate local sewer not adapted to receive sewage from collateral drains or sewers, shall be primarily assessed against the abutting property holders in the same manner and to the same extent as assessments are primarily made against such property holders for local sewers. The excess of cost over and above what would be equivalent to the cost of a local sewer shall be primarily assessed against each lot or parcel of land in the district or area to be drained in the proportion that the area of any such lot or

parcel bears to the total area of the district, including abutting property holders, as well as the holders not situated on the line of such drain or sewer: *Provided,* That all such primary or preliminary assessments shall be subject to review and revision by said board after the hearing, which is hereafter in this act provided.

Assessments for Sewers and Drains.

SEC. 120. In making assessments against each lot or parcel of land for the construction of any sewer, as provided for in this act, said board of public works shall, as soon as any contract for the construction of any such sewer has been completed, make out an assessment roll, with the names of the property owners and descriptions of the property primarily assessed for such sewer or drain as hereinbefore provided. Said assessment roll shall also have set opposite each name and description the total primary assessment against each lot or parcel of land, determined according to the provisions of the preceding section, as the special benefits accruing to such lots and parcels of lands by reason of such improvement, subject to the review and revision hereinafter provided for, and such primary or preliminary assessment shall be final and absolute against such lots and parcels unless changed in the manner hereinafter provided, to wit: Immediately after said assessment roll is completed and filed the said board shall cause to be published in some daily newspaper of general circulation in said city, once each week for two consecutive weeks, a notice which shall describe the general character of the improvement, the street, alley or public place on or in which it has been made, the terminals of the sewer, whether a local or general sewer, and if the latter, the boundaries of the area or district benefited and to be assessed. Such notice shall also state that the assessment roll, with the names of the owners and descriptions of property to be assessed, with the amounts of the preliminary or primary assessments against each lot and parcel of land abutting on such sewer or in the area or district aforesaid, is on file and can be seen in the office of said board. Said notice shall also name a day after the date of said last publication on which the said board will, at its office, receive and hear remonstrances against the amounts assessed against each of such lots and parcels of land on said roll, and will hear and determine the question as to whether such lots and parcels of land have been or will be specially benefited by said improvement in the amounts stated and set forth in said roll. At the time so fixed in such notice the board shall give a full hearing to any and all persons, owners of such real estate so assessed, who may appear before it and file remonstrances against such assessments, and may continue proceedings from day to day as

long as may be necessary to hear such evidence as may be adduced to it bearing on the question to be by it determined. The said board shall determine on such hearing whether the several lots and parcels of land, primarily assessed as aforesaid are specially benefited in the amounts, respectively, assessed againt them in the preliminary or primary assessment aforesaid. The said board shall either sustain or modify in whole or in part the preliminary assessment, as indicated on said roll, either by confirming such preliminary or primary assessment against any or all lots or tracts described therein as it may find specially benefited to the amounts of such assessments by reason of the improvement on account of which the same were made, or by increasing or reducing such assessment according to such special benefits received on account of such improvement. The board shall also have the power to determine what part, if any, of the benefits resulting from such improvement accrue to the said city, and any amount so found shall be assessed against such city on said roll and paid out of funds appropriated to the use of said board for such purpose by the common council: *Provided,* That not more than five hundred dollars shall be paid out of the city funds for any one improvement, unless pursuant to an ordinance specially appropriating the same for such specific improvement. The said board shall complete said roll and render its decision to all such special benefits by modifying or confirming said assessment roll, showing the amount of special benefits opposite each name and description as aforesaid, and against said city, if it be found that such city is specially benefited as aforesaid, and when completed said assessment roll shall be delivered to the department of finance of said city. The decision of such board as to all such benefits shall be final and conclusive: *Provided,* That if the owner of any lot or parcel of land so assessed as aforesaid shall, within ten days from the completion of said assessment roll, by his written verified petition to the circuit or superior court of the county in which such city is situated, show that the amount so assessed against such lot or parcel of land is excessive, and that such real estate is not benefited by such improvement in such amount, the court shall, without delay, appoint three disinterested freeholders of said city to reassess such benefits, if any there be, accruing to the real estate described in such petition. Such appraisers shall at once take an oath before the clerk of said court that they will faithfully, honestly and impartially discharge the duties required of them, and proceed forthwith to view the proposed improvement and the real estate described in such petition and report in writing to said court within three days after viewing such improvement and premises whether the said assessment complained of is excessive and

if so, what amount, if any, such real estate is or will be benefited by such improvement. Such report shall be entered upon the records of said court, and a copy thereof filed by said appraisers with the said board, and such report shall be final and conclusive on all parties thereto. If it be found in such report that the assessment against such lot or tract is excessive, then the said board shall have the power to order the payment of such excess out of any funds which may have been appropriated to its use by the common council of such city. Such appraisers shall each be entitled to be paid three dollars per day for every full day in which they are engaged in such service. The cost of any such proceedings, including the compensation of such appraisers, shall be paid by the party complaining of such assessment, unless the said assessment is reduced ten per cent. by such appraisers, and judgment shall be rendered against him for the amount of such cost. In case such assessment shall be reduced ten per cent. or more in such proceeding, such costs and expenses shall be paid by said board of public works out of any funds appropriated by the common council for that purpose, and such common council shall make all necessary appropriations to enable said board to make all payments provided for in this section. The delivery of the assessment roll to the department of finance, as hereinbefore provided, shall not be delayed on account of said proceedings, nor shall the rights of any other property holder be affected thereby. In case any assessment is reduced in such proceeding the board of public works shall certify such correction to the treasurer, who shall enter the proper amount of such assessment on said roll. If there be a defect in the proceedings with respect to one or more interested persons the same shall not affect such proceedings except so far as it may affect the interest or property of such person or persons and shall not avail any other person therein. In case of such defect supplementary proceedings of the same general character as those hereinbefore described may be had to correct or supply the same. When the said assessment roll shall have been delivered to the department of finance, as hereinbefore provided, the said department and the treasurer of said city shall thereupon discharge the same duties in respect thereto as are prescribed by law in relation to street improvement assessments in such city. The provisions of the statute in relation to liens for street improvements, to the payment of street improvement assessments by installments and the issuance of bonds and coupons to anticipate the same, and the duties of the treasurer of any such city shall also apply to the lien, the enforcement thereof and to payments of assessments for the construction of sewers, drains, levees or for the change of any water course or the drainage of any section of ground. The pro-

vision of the statute of this state concerning the enforcement of assessment liens for street improvements in cities of the first, second, third, fourth and fifth classes, suits foreclosing such liens, attorney's fees in such suits, the procedure therein, the conduct of sales by the sheriff, pursuant to any decree of foreclosure therein, the execution of certificates and deeds, and all matters of a similar nature regarding assessments for street improvements and the collection thereof in such cities, and the rights of contractors, assignees and bondholders therein shall apply fully to the enforcement of assessments made for the construction of sewers, levees or drains, or to pay for the drainage of any parcel, lot or tract of land, or to pay for a change in any stream or water course, as well as the collection of any bond or coupon issued under the provisions of this act.

Sewer or Drain Through Cemetery.

SEC. 121. If the said board of public works shall determine that it is necessary to extend any sewer or drain through or adjacent to any lot or parcel of land held, used or occupied for cemetery purposes, all necessary rights of way therefor may be acquired by such city, either by purchase or by such condemnation proceedings as may be provided by law in such cases, any other law to the contrary notwithstanding, but lots or parcels of land held, used or occupied for such purpose, shall not be assessed for the construction of such sewer or drain, but so much of the cost of such sewer or drain as would be assessable against such lots or parcels of land, if not so held, shall be assessed against such city and shall be paid by it. If such city shall proceed in such case by condemnation proceedings to acquire such right of way, and any of the owners or holders of property or valuable interests therein, sought to be taken or to be injuriously affected, are unknown, the owner or owners thereof may be designated as unknown upon the list provided for by the statute governing condemnation proceedings in such cities, and in all subsequent steps in such proceedings, including notice by publication. If, upon acquiring such right of way, there shall remain buried within the limits thereof any dead body it shall be the duty of the friends, relatives or next of kin to promptly remove the same; if, however, they fail to do so, said board of public works, prior to the construction of the sewer or drain in such right of way, shall cause the same to be removed and decently interred elsewhere in a public cemetery, and the place of such interment to be plainly marked in an appropriate manner. The names of persons so reinterred, if known, and the place of reinterment, shall be entered and preserved upon the records of said board.

Levee—Watercourse—Drain—Change and Construction.

SEC. 122. Whenever the board of public works shall declare that the erection or the change of any levee or the change or improvement of any water-course, natural or artificial, or the drainage of any section of ground, or the construction of any sewer or drain, designed to receive the drainage of land both within and without the corporate limits of the city, is necessary for the public welfare of the said city, or any part or portion thereof, and shall order that the same shall be made, it shall cause the necessary drawings and specifications to be prepared for the work and filed in such office. At the time of making the order for such improvement or work the board of public works may take into consideration whether the said work or improvement, when completed, will beneficially or injuriously affect any lands or property outside of the corporate limits of said city. In case the board shall find and declare that the proposed work, when completed, will injuriously or beneficially affect lands or property without the corporate limits of such city, then and in that case only, the said board shall file a copy of all proceedings had in the matter of the said improvement or work in the circuit court of the county in which such city is situated, including a list of all the persons whose property will be so affected, as the same appears upon the records of the county at the time the said board passes said declaration for improvement, with a description of the boundaries embracing the same; which proceeding shall be docketed in the circuit court as a cause; and the court shall fix a time when the same shall be heard. And thereupon the clerk of said court shall notify all persons mentioned in such proceedings, or to be injuriously or beneficially affected thereby, that the said proceedings will be heard at a date named, which notice said clerk shall cause to be published once a week, for at least three weeks, in some newspaper of general circulation throughout the county. It shall not be necessary in such notice to set forth the names of all the persons beneficially or injuriously to be affected by such work, but it shall be sufficient in said notice to give the outlying boundaries of the district or locality which such board shall have determined to embrace all the persons to be injuriously or beneficially affected thereby, as set forth in the said proceedings, and the same may be continued and adjourned from time to time as the court may direct. At such hearing any property holders within the boundaries of said district may file an answer showing any reasons why said improvement should not be made, and upon such issue the court shall hear evidence and determine the fact. If the court shall determine that such improvement or work should be made substantially as proposed by the said proceedings, then the court shall enter a judgment accordingly; otherwise, dis-

miss the proceedings. From such judgment there shall be no appeal. In case the court shall order and adjudge that the said work or improvement shall proceed, the same shall be done under the control and supervision of the board of public works, which board shall advertise for bids for such work, let the same by contract, and in these and all other respects proceed in accordance with the provisions of this act relating to the construction of sewers and drains wholly within the city, except that after the contract shall have been awarded the said board of public works shall report the same to said court, to be filed in said proceedings, and thereupon the court shall appoint three competent, disinterested persons who may be residing anywhere within the county, to be known as the board of assessors for said improvement. The members of said board shall take an oath to honestly and faithfully perform their duties as such assessors. It shall be their duty to inspect the line of the said proposed improvement or work, and the property within such district, and estimate and assess the benefits against each piece of property to be benefited by said work, and award damages to each piece of property to be injuriously affected thereby; and in the performance of this duty they shall sit at such times and places as the court may direct, administer oaths, send for persons and papers, and hear testimony touching the question of benefits and damages to be assessed. At the conclusion of such hearing, which may be continued from day to day and time to time, the said commissioners shall prepare a list or roll of the property holders together with a description of the property beneficially affected by such work, setting opposite each description or parcel the benefits thereto; and also a list or roll of such property holders, with a description of the property injuriously to be affected by such work, and the damages thereto. Any description may be corrected at any time, or omissions supplied by the said commissioners, or the board of public works, and no proceedings shall be held to be defective or void by reason of any omission or defect in the said descriptions, and no property holder shall be heard to make any objection to the proceeding on the ground of any mistake or omission of name of his own or any other property holder within the said district, or that the property of any person is incorrectly described or wholly omitted, but upon such mistake or description being made known to the court the judge shall have power to call the said assessors together, who shall be authorized and empowered to make any such additions or corrections as may be necessary in the premises from time to time. The work shall be carried on under the supervision of the board of public works, and when the same is finally accepted by said board it shall certify the fact of such completion and acceptance to the said court, which court shall

thereupon, by proper order, direct the clerk of said court to make out in duplicate a true and corrected list or roll showing the names of the property holders, together with a description of each piece or parcel of property, together with the benefits and damages assessed upon or in favor of such parcel, and certify the same under the seal of the court, and deliver one copy thereof to the city controller and the other to the treasurer of the county: *Provided,* That if said board of public works shall find that such improvement is necessary for the public welfare of such city and that the benefits assessed shall fall below the amount required to pay the damages awarded and to pay for such improvement, said board shall order and direct that any balance required for said purpose shall be paid by the city out of the general fund or out of any sewer fund applicable to such payment. The provisions for the liens of assessments, the collection of assessments, right of election of property holders to pay the same in installments, the issue of bonds to anticipate the same, and all other provisions with regard to street or sewer improvement assessments shall govern in the matter of assessments made for or on account of improvements and public works, constructed under the provisions of this section, as the same are applicable. At the conclusion of the proceeding the court shall make a reasonable allowance to the said assessors, and tax the same with the other costs of the proceedings, which shall be payable out of the treasury of the city. In case it shall be necessary at any time to take, acquire, appropriate or condemn for the use of such city any property, real or personal, whether within or without such city, in order to carry out and complete such work or improvement, the same may be taken, appropriated, condemned and paid for as in other cases provided in this act; or the said board of public works, for and in behalf of said city, may purchase and acquire the same and take a conveyance therefor to the use and benefit of said city, under the provisions and regulations of said act.

Levee and Street—Appropriation of Land.

SEC. 123. The board of public works of any city shall have the power whenever, in their discretion, such course is advisable to appropriate land for the purpose of constructing a levee for the prevention of the overflow of lands, and of constructing a street upon such levee or in such connection therewith as the entire work shall operate to prevent overflow of land by water; and also in the same proceedings to provide for the construction of such levee and street in conjunction.

Plan of Levee Construction—Remonstrance—Hearing.

SEC. 124. Whenever such board of public works shall deem it advisable to appropriate lands for the construction of such levee

and street in conjunction and proceed with the work of such construction it shall adopt a resolution declaring such purpose, describing the lands to be appropriated therefor, and such other lands as may be injuriously or beneficially affected by said work, and shall cause proper plans and specifications for the proposed work to be prepared by the city civil engineer, which shall be open to inspection by all persons interested in or affected by the appropriation of such lands and the construction of such work, and cause notice of such resolution and of the fact that such plans and specifications have been prepared and can be thus inspected to be published in some daily newspaper of general circulation in such city once each week for two weeks. Such notice shall name a time not less than ten days after the last day of publication, at which such board shall receive or hear remonstrances from persons interested in or affected thereby. At the time so fixed therefor said board shall hear such remonstrances, if any are presented, and after considering the same, take final action, confirming, modifying or rescinding their original resolution. Such action shall be final and conclusive upon all persons.

Final Levee Order—List of Property.

SEC. 125. Upon such final order being made, as provided in the preceding section, said board shall cause to be prepared a list or roll of all the owners or holders of property and of valuable interests therein sought to be taken, or which will be either injuriously or beneficially affected by the appropriation of such land and the construction of such work. Such list shall not be confined to the owners of property adjacent to the line of the proposed work, but shall extend and include all property taken, benefited or injuriously affected thereby, whether within or without the limits of said city. In addition to such list of names the same shall show with reasonable certainty a description of such property to be taken or affected either injuriously or beneficially, belonging to such persons, no greater certainty in names or descriptions shall be necessary to the validity of any assessment than is required in the assessment of taxes.

Damages—Benefits—Estimates of Cost.

SEC. 126. Upon the coming in of such list such board shall proceed to consider and determine, first, the damages which should be awarded to the owners of the several parcels of land required to be taken and appropriated for the construction of such street and levee, or which would be injuriously affected thereby; second, the amount of benefits which would accrue to the several tracts or parcels of land benefited by the construction of such work, separately stating the benefits which would accrue to each of said parcels

by reason of such work operating as a highway for travel, and the benefits which would accrue thereto by reason of such work operating as a levee protecting such lands from overflow; third, the estimated cost of construction of said work over and upon each of the several tracts or parcels of land, over and upon which it is proposed to locate such work. In estimating the cost of the construction of such a highway in the absence of the levee, and what portion of said cost of construction shall be deemed to represent what would have been the cost of the construction of the street, sufficient for such a highway in the absence of the levee, and what portion thereof shall be deemed to represent the cost of the construction of the levee, independent of the street. The damages awarded, the benefits assessed and the estimated cost of such work shall be severally shown as against each separate parcel of real estate on said list. When said list shall have been thus completed said board shall cause a written notice to be served upon the owner of each parcel of property showing separately each item of said determination as to the lands or lots so owned by him by leaving a copy of the same at his last usual place of residence in such city, or by delivering a copy to such owner personally. If such person be a nonresident, or his residence shall be unknown, then he shall be notified by publication in some daily newspaper of general circulation in such city once each week for three successive weeks. Such notices shall also name a day, not earlier than ten days after service of such notice, or after the last publication, as the case may be, on which said board shall receive or hear remonstrances from persons with regard to the amount of their respective awards or assessments. Persons not included in such list of assessments or awards and claiming to be entitled to the same shall be deemed to have been notified of the pendency of the proceedings by the original notice of the resolution of the board.

Minors and Insane Persons.

SEC. 127. In case any person having any interest in land affected by such proceedings shall be of unsound mind, or an infant, said board of public works shall certify the same to the city attorney, and said city attorney shall forthwith apply to the proper court and secure the appointment of a guardian for such infant or person of unsound mind, and thereupon said board shall give notice to such guardian, who shall thereupon appear, and protect the interest of his ward: *Provided,* That if such infant or person of unsound mind already have a guardian, such notice may be served upon such guardian. The requisites of notice to such guardian shall be the same as in the case of other notices. If there be a defect in the proceedings with respect to one or more interested persons, the same shall not affect such proceedings ex-

cept so far as it may touch the interest or property of such person or persons and shall not avail any other person concerned therein. In case of such defect, supplementary proceedings of the same general character as those heretofore prescribed may be had in order to supply the same.

Remonstrance—Appeal.

SEC. 128. Any person notified, or deemed to be notified under the preceding section, may appear before such board on the day fixed for hearing such remonstrances with regard to awards and assessments, and remonstrate against the same. After such remonstrance shall have been received said board shall thereupon either sustain or modify the awards or assessments in the case of such remonstrances, but in no other case. Any person thus remonstrating, who is aggrieved by the decision of the board may within twenty days thereafter take an appeal to the circuit or superior court in the county in which said city is located. Such appeal shall only affect the assessment or award of the person appealing.

Procedure in Appeal.

SEC. 129. Such appeal may be taken by filing an original complaint in such court against such city within the time named, setting forth the action of the said board of public works in respect to such assessment, and stating the facts relied upon as showing an error on the part of such board. Such court shall rehear the matter of such assessment de novo, and confirm, lower or increase the same as may seem just. In case such court shall reduce the amount of benefit assessed against the land of such property-holder or increase the amount of damages awarded in his favor, the plaintiff in such suit shall recover costs, otherwise not. The judgment of such court shall be final, and no appeal shall lie therefrom.

Assessments a Lien.

SEC. 130. On the completion of such assessment roll by said board of public works, the same shall be forthwith delivered to the department of finance and from that time the respective amounts of benefits therein assessed shall severally be liens, superior to all other liens except taxes against the respective lots or parcels of land upon which they are assessed, said department of finance shall at once prepare a duplicate of said assessment roll of benefits, the same to be known as the local assessment duplicate, and deliver the same to the treasurer. The duties of the treasurer and of the department of finance in respect thereto shall be the same as are herein more specifically prescribed with regard to assessments for street improvements.

Agreement with Land Owner.

SEC. 131. If upon the completion of such assessment roll the owner or owners of any one or more of said tracts or parcels of land, over which such work shall be located, shall propose to said board of public works to enter into agreement with it that he will dedicate said land to the public for the construction of such work, and that he will fully execute and perform all requirements of said plans and specifications so prepared by city civil engineer for the construction of any levee and street to his satisfaction and approval so far as said work is located upon the land of such owner; if it shall appear that the estimated cost of such construction together with the damages awarded to such land owners shall exceed the benefits assessed against the land owned by him by reason of such construction, said board of public works shall have power and authority to enter into such agreement with said land owner and as a part of said agreement to release such land owner upon his having fully performed the same from all further liability on account of the appropriation of land and for the construction of the entire work.

Contracts with Owners—Other Contracts.

SEC. 132. In the event that the owner or owners of any one or more of said parcels of real estate over which it is proposed to construct such levee and street shall enter into such contract or contracts for the construction of such portion or portions of said work as shall be located over his or their parcels of land, respectively, then said board of public works shall proceed to let the contract for the remainder of such construction in the same manner and under the same restrictions as are by statute in such cases required for the improvement of streets in such city: *Provided,* No contract shall be awarded for such construction which exceeds the excess of the aggregate of the assessment of benefits over the aggregate of the damages awarded, as against the lands owned by persons not having entered into the contracts provided for in the preceding section of this act, unless said board of public works, with the consent of the common council of said city at the time of the letting of such contracts shall undertake to pay the remainder of such contract price, in such event the damages awarded to all other land owners than such as have entered into the contracts provided for in the preceding section, and the entire cost of such construction shall be paid ratably and proportionately from the assessments of benefits assessed against said respective parcels of real estate, arising out of the construction of said levee and street, and in the event the city shall have undertaken to pay the remainder of such cost from the city treasury it shall be so paid.

Contract for Entire Work.

SEC. 133. In event none of the owners of lands over which such work is proposed to be constructed shall enter into such contracts as are provided for in this act, then the board of public works shall proceed to let the contract for the entire work, in the same manner and subject to the same restrictions as are provided in this act for letting contracts for a portion of said work, in the contingencies therein specified; and the cost of such entire construction shall be paid as provided in the preceding section for the payment of such partial construction.

Benefit Assessments—How Payable.

SEC. 134. Said assessments of benefits as provided in the preceding sections of this act shall be payable to the treasurer as follows: A ratable proportion of each assessment sufficient to pay the damages awarded for land taken for or injuriously affected by the construction of such levee and street, which have not been released by the owners thereof, and which owners have not been discharged from the payment of such benefits by entering into such contract shall be due and payable at once upon the completion of such assessment roll and its being deposited with the department of finance, and all persons interested in collecting such damage shall be entitled to the same remedy for the collection thereof as is now by statute provided for the collection of assessments of such benefits in case of appropriation of land for street purposes in such city. The remainder of such assessment shall be due and payable as is now by statute provided for the payment of assessments for street improvements in such city. The land owners shall be entitled to all the rights, and the city and all other persons interested in the collection thereof shall have the same remedies as are provided herein in cases of assessment for street improvements.

Sprinkling and Sweeping.

SEC. 135. Whenever the board of public works of any city shall order any street, alley or other public place to be sprinkled, swept or otherwise kept clean, and such street, alley or other public place has been permanently improved with asphalt, vulcanite, brick, granite, wooden block, or other pavement, such board shall cause the necessary specifications for such work to be prepared and filed in the office of the board, and shall publish a resolution ordering the work to be done, hear remonstrances, modify, confirm or rescind its original resolution, advertise for bids and let the same by contract, all as more specifically provided in this act in relation to the improvement of streets and other public works: *Provided, however,* It shall not be necessary to hear remon-

strances in connection with the letting of the contract for any such work whenever the same is to be paid for out of the general funds in the treasury.

Cost of Sprinkling and Sweeping—How Paid.

SEC. 136. The cost of such sprinkling shall be assessed pro rata against the lots, tracts and parcels of land along the line of such street, alley or other public place, as the cost of street improvements is assessed, and such assessments shall be liens upon property benefited as of date of the letting of the contract: *Provided,* That the city council of any such city may by ordinance provide that such sprinkling of the streets and alleys of such city shall be paid out of the general funds in the treasury of such city, and when any such ordinance shall be adopted by the city council ot any such city, then and in that event no assessment shall be made on adjacent or other property for the cost of any such sprinkling; and in letting the contract for such sprinkling in such case it shall not be necessary for the board of public works to hear remonstrances. The cost of such sweeping or cleaning shall, in all cases, be paid by such city out of funds in the city treasury. Such board in its annual estimate of the amount of money needed by it for the ensuing fiscal year shall include as an item thereof an estimate of the amount of money needed for such sweeping or cleaning; and in the event that such city shall by ordinance provide for the cost of such sprinkling to be paid out of the general funds of the city, then such board shall also include the costs thereof as an item in its said annual estimate, and the common council shall in the ordinance fixing the tax levy for each year fix the same so as to create a fund for such purpose equal to the amount of such estimate, as it may have been revised by the controller under the provisions of section eighty-four of this act, and such item shall not be reduced by such ordinance after revision by the controller. Such board may at its option embrace in one order or resolution, and also in one contract, any number of streets, alleys or other public places for which the specifications for such sweeping, sprinkling and cleaning are uniform; or such board may include in one resolution and contract such streets as to which the specifications for sprinkling, sweeping or cleaning are not uniform: *Provided,* That such contract and the bids therefor shall separately state the cost of sprinkling or sweeping and cleaning streets or alleys which are uniform with regard to the specifications as to such sprinkling, sweeping or cleaning. In such cases such board may accept part of such bid on one group of streets uniform in their specifications and reject other parts of such bids on other groups of streets.

Sprinkling Assessments—When Due.

SEC. 137. In case the cost of street sprinkling shall be paid by assessments, the duties of the department of finance and of the treasurer, the rights of contractors, and the liabilities of any city in relation to such sprinkling assessments, also the right of foreclosure of liens by suit and the recovery of interest, costs and attorney's fees, so far as applicable, shall be the same as provided for in this act in the case of assessments for street improvements, except as otherwise herein provided. All street sprinkling assessments for any one year shall be payable in full on the first Monday in November in such year, in the manner that street improvement assessments are payable. But the provisions of this act in relation to the payment of street improvement assessments by installments, and the issuing of bonds to anticipate the same, shall have no application to street sprinkling assessments.

Lamp Posts—Contracts and Cost.

SEC. 138. Whenever the board of public works of any city shall order any street, alley or public place to be supplied with lamp posts, it may by resolution order such lamp posts without publication or notice or the hearing of remonstrances. Contracts for such lamp posts may be let as other contracts, and the cost thereof assessed against the owners of the property benefited, as the cost of street sprinkling; and the same shall be collected and the department of finance and the treasurer shall perform the same duties, and the contractor shall have the same rights as in the case of street sprinkling assessments.

WATERWORKS.

Waterworks—Control and Management.

SEC. 139. In any city of the first, second, third or fourth class, having waterworks heretofore under the control and management of waterworks trustees, such trustees shall immediately on the appointment and qualification of the board of public works for such city turn over to such board the possession, management and control of such waterworks, together with all books, papers, and other property in their charge, and shall at the same time file with the mayor and common council a final report of all matters in relation to such waterworks, and thereupon such board of waterworks trustees shall be abolished: *Provided,* That in any city of the second class, owning and operating its own system of waterworks, the common council may provide by ordinance for a department of waterworks and place the same under the control of a board of three trustees, to be appointed by the mayor, not more than two of whom shall be of the same political party, and who shall be gov-

erned in their duties by the provisions of this act regulating the duties of boards of public works in the control and management of waterworks. Each member of such board shall receive a salary at the rate of five hundred dollars per year, which may be increased by ordinance to any sum not exceeding seven hundred dollars per year. Each of such trustees shall before entering upon the duties of his office, give bond in the sum of five thousand dollars, to be approved by the city controller, for the faithful performance of their duties and strict accounting for all funds that shall come into their hands: *And provided,* That in any city of the second class having a board of waterworks trustees elected by the people, such trustees shall serve until the next municipal election and until their successors are appointed and qualified. The board of public works in every city, except as herein provided, shall manage, conduct and control the waterworks of such city, furnish a supply of water, collect water rents, appoint all necessary officers and agents, and remove any of such appointees at any time. Not more than one-half, as nearly as may be, of the regular appointees of the waterworks shall be taken from or maintained from any one political party. The board of public works shall be authorized to make such by-laws and regulations as it may deem necessary for the safe, economical and efficient management and protection of the waterworks, and such by-laws and regulations shall have the same validity as ordinances, when not repugnant thereto, or to the constitution and laws of the state. For the purpose of paying the expense of managing and operating the waterworks, the board of public works shall have power to assess and collect, from time to time, a water rent of sufficient amount, and in such manner as it may deem most equitable, upon all tenements and premises supplied with water, and from manufacturing establishments and railroad shops, and for the supply of boilers and locomotive engines, and for all other purposes tending to increase the income of the waterworks. Should there be any surplus money after paying the expenses of operating the waterworks, the same may be applied to the repair, enlargement or extension of the works, or of the water supply, the payment of the interest on any loan made for their construction, or for the creation of a sinking fund for the liquidation of the debt. The board of public works shall make monthly reports to the controller of such city of the receipts and disbursements of money belonging to the waterworks, and an annual report of the condition of the same, which shall be published with the report of the controller, as provided in section eighty-eight, clause second, of this act. The board shall cause all money collected for waterworks purposes to be deposited weekly with the treasurer of the city, and the receipts therefor shall be by the collector or collectors deposited with the board of public works, and

such board shall cause a statement of the amount of such collection to be filed with the city controller. All moneys so deposited shall be kept a separate and distinct fund, subject to the order of such board. All orders drawn by the board on the treasurer of the city shall be signed by at least two members thereof, countersigned by the clerk of the waterworks, and approved by the controller. The board of public works is authorized to make contracts for the erection of waterworks buildings and the construction of settling basins and other appendages, and the enlargement and repair thereof; for the purchase of machinery and the manufacture and laying down of pipes; for the furnishing and supplying with connections of all necessary fire hydrants for fire purposes and for keeping the same in repair, and for all other purposes necessary for the full and efficient construction, management and operation of the waterworks. Such contracts shall be subject to the ratification, by ordinance, of the common council. The common council of such city in which waterworks are or may be situated, or in process of construction, shall appoint a committee of investigation of all books and papers, together with all matters pertaining to the management of the waterworks at least once a year, or oftener if it seems necessary; and every officer of the waterworks found by such committee to have failed in his duties shall be liable to removal from office by the mayor. No charge shall be made by the board of public works for the supplying of water for the extinguishing of fires, for supplying and furnishing connections for fire purposes, for the cleaning of market houses or streets, for the use of public buildings, parks and other grounds belonging to the city, for flushing out sewers or for other sanitary purposes. All attachments of whatever nature made to the water pipes or other fixtures belonging to the waterworks, whether intended for public or private use, shall be subject to the same supervision, rules and regulations as are made for the protection of such waterworks against other abuse or destruction or the inordinate and unnecessary use or waste of water; or the board may make special or general rules and regulations for such purposes. The board of public works, before entering into any contract for work to be done for waterworks, shall cause two weeks' notice to be published, as provided in section fifty-two of this act, that proposals will be received by the board for performing the work, or the several parts of the same, specified in such notice; and the board shall contract with the lowest bidder, if, in its opinion, such lowest bidder can be depended on to do the work with ability, promptness and fidelity, which contract shall be subject to ratification by ordinance of the common council, as heretofore provided. If the board is not satisfied to give the contract to the lowest bidder, it may give the contract to the next lowest bidder, or may decline to contract, and

readvertise. Such board shall require bond to be given with good and sufficient surety for the faithful performance of the work; but no member of the board shall in any wise, either directly or indirectly, be interested in any such work or become surety on such bond. Such bond shall be approved by the city controller and mayor. For the purposes of paying the principal and interest on the money borrowed for the construction and completion of any waterworks, or for the purpose of repairing or rebuilding the same, a tax of sufficient amount shall be assessed by the common council of any such city on all taxable property of the city: *Provided,* The additional special tax hereby authorized shall not, in any one year, exceed fifty cents on each one hundred dollars of taxable property. The said tax, when levied and assessed, shall be a lien upon the property upon which it is levied, and charged against the owners thereof, and shall be placed on the city duplicate in separate account thereof, and be collected as other taxes. The jurisdiction of any such city owning waterworks shall extend, for the purpose of preventing and punishing any pollution of the water, ten miles from the corporate limits thereof: *Provided,* That if any person own a water power, mill or other property within the limits herein prescribed, in the use or management of which any stream of water supply is polluted to such an extent that the water derived therefrom is thereby rendered unfit for the uses of such city, such water power, mill or other property may be condemned for the benefit of such city, as other property is condemned for public use. Upon tender of the amount of the appraised valuation of such property by the city, and refusal by the property owner to accept the value appraised aforesaid, the business carried on and conducted on such property may be enjoined in any court of competent jurisdiction. In addition to the powers given in this section, the board of public works in any such city shall also have and exercise all the executive powers given in this act in relation to the purchase or condemnation, erection and management of waterworks, gas works, electric light works, heating and power plants.

PUBLIC PARKS.

Cities of Third, Fourth and Fifth Class—Control.

Sec. 140. In cities of the third and fourth classes, the board of public works shall have charge, control and management of all public parks and pleasure grounds belonging to any such city, together with the approaches thereto; and shall have power to receive, purchase and condemn land for public parks as in the case of lands received, purchased or condemned for the use of any such city for any other public purpose. Such board of public works, in every such city, is also given all the executive powers and is

required to perform all the executive duties prescribed in sections two hundred and fifty-eight and two hundred and fifty-nine of this act in relation to the purchase or condemnation, control, management and care of public parks, and for the employment of a superintendent and help necessary for that purpose. In cities of the fifth class, such control, management and care of public parks and the right to purchase or institute proceedings to take lands therefor, shall be vested in the common council of any such city, and committees and officers and employes appointed or employed by such committees, subject to the approval of such council: *Provided,* Such committees shall receive no compensation for such services, except their fixed salary as such councilmen.

PUBLIC PARKS IN CITIES OF THE FIRST AND SECOND CLASSES.

First and Second Class—Department of Parks.

SEC. 141. In every city of the first and second classes in addition to the executive departments hereinbefore established by this act in such cities, there is hereby established as one of the executive departments a "Department of Public Parks," which shall be under the control of a board of four members, not more than two of whom shall be of the same political party, to be appointed by the mayor, and to be known as the "Board of Park Commissioners," and who shall serve without compensation, except their actual expenses, to be approved by the mayor. Each member of the said board, before entering upon his duties, shall take and subscribe the usual oath of office, to be endorsed upon the certificate of his appointment, and shall cause the same to be filed with the city clerk. Any person who shall not file such oath with the city clerk as herein provided within ten days after the beginning of the term for which he has been appointed, or the date of his appointment, if appointed after the beginning of such term, shall be deemed to have refused to serve and the office shall become vacant.

Commissioners—Terms.

SEC. 142. The first members of such board of park commissioners shall hold office respectively as follows: One for the term of one year, one for the term of two years, one for the term of three years, and one for the term of four years, from and after the first day of February of the year of their appointment. Where, in any such city of the first or second class, there has heretofore been established by law a board of park commissioners, consisting of four members, as hereinbefore provided, and where such park commissioners have been appointed by the mayor and are now serving as such, each for a term of four years, such respec-

tive terms are hereby confirmed, and such board of park commissioners so appointed is hereby charged with the duties and powers herein declared for park commissioners in cities of the first class, as if established and appointed under authority of this act; and after the going into effect of this act such commissioners so heretofore appointed shall have and exercise all the powers and duties prescribed for boards of park commissioners in cities of the first class by the provisions of this act. Annually thereafter, on the expiration of the respective terms aforesaid, on or before the first day of February in each year, the mayor shall appoint a commissioner or commissioners to fill the vacancies caused by such expiration, and the commissioner or commissioners so appointed shall hold office for a term of four years, beginning with the first day of February in the year of appointment, and if any vacancy occur in such board by resignation or otherwise, the mayor shall appoint one or more commissioners for the residue of the term, or terms, and may also remove any commissioner but only upon his filing in writing with the city clerk his reasons for such removal.

Officers of Board—Reports—Funds, Etc.

Sec. 143. The said board of park commissioners in any such city of the first or second class shall choose one of its members chairman, and may from time to time appoint a clerk and such other employes as it deems necessary; it may determine the duties of such appointees and may remove them at pleasure, and make all reasonable rules and regulations not in conflict with the laws of the state or the ordinances of such city. Such board shall have a suitable office provided for it by such city, where its maps, plans, documents, records and accounts shall be kept, subject to public inspection at all reasonable times. On or before the first day of December, each year, such board shall make a report to the mayor of its proceedings with a full statement of its receipts and disbursements for the preceding calendar year. All moneys received by the board shall forthwith be paid into the city treasury, and all expenditures relating to the parks, parkways and public grounds, boulevards, driveways and other avenues and places of such city under the control of such department shall be provided for in the same manner as the expenditures of the other departments are provided for and shall be paid from the city treasury, when required, under the same rules and regulations governing the expenditures of other departments of such city. A majority of the members shall constitute a quorum, and no action of such board shall be binding unless authorized by a majority of the members at a regular or duly called special meeting thereof. But, in case of a tie vote on any question, the mayor shall decide. All meetings shall be open to the public.

Control of Parks and Boulevards—Powers.

SEC. 144. The said board of park commissioners, in every city of the first or second class, shall have the exclusive government, management and control, subject, however, to the laws of the state and to the powers of the common council in relation thereto, of all the parks, parkways, park boulevards and public playgrounds of the city, and also of all public parks, driveways and public grounds outside of the city, which may be established under the provisions of this act, and shall have full power to enforce all laws and ordinances for the proper use, regulation and government thereof; and for all the purposes of such government, maintenance and direction of public use, such parts of all roads or avenues as pass through such public grounds or parks shall be deemed to be a part thereof, and shall be under like control and management of the board of park commissioners. And the said board shall have, subject to the limitations aforesaid, full and exclusive power:

First. To acquire, lay out, improve, maintain, and regulate public parks, parkways, park boulevards and playgrounds of such city, and to govern, manage and direct the public use of the same.

Second. To make rules and regulations for their proper management and government.

Third. To appoint a superintendent of parks and such engineers, surveyors, clerks and other officers as the board may deem expedient, and to prescribe and define their respective duties and authorities, and, in the absence of an ordinance therefor, to fix and regulate the compensation to be paid to the several persons so to be employed by it; and the said board is authorized to require from the department of public safety of such city a special detail of police to execute the orders and enforce the rules and regulations made by the board of park commissioners, and thereupon the board of public safety shall detail policemen who shall be constantly subject to the orders of the board of park commissioners. In case of disagreement between the two departments as to the number or duration of service of such details of policemen, the mayor shall decide the matter.

Fourth. To locate, erect and maintain fountains in such parks or any of them, as well as in the streets and avenues which form the boundaries thereof or intersect the same; and to erect and maintain suitable fences around such parks.

Fifth. To seize and impound poultry or animals found running at large in any of the public parks, and to establish suitable places for such impounding.

Sixth. To lease any buildings or grounds belonging to such city which may be within the limits of any park, when the same are not required for public use; and to sell any buildings, improve-

ments or materials within the limit of any park and belonging to the city, which, in the judgment of the board, may not be required for the purposes of such park, or for public use; and the proceeds thereof shall be deposited with the city treasurer to the credit of the department of public parks and devoted to the improvement of such parks. In the letting of any contract for public improvements or repairs involving the expenditure of more than one hundred dollars the board of park commissioners shall in the matter of adopting plans, giving notices and receiving bids, be subject to the provisions of this act governing similar action by the board of public works.

Action for Damages—Publication of Rules.

SEC. 145. The board of park commissioners in every such city of the first or second class may also, in the name of the city, bring any action which it deems proper, to recover damages for the breach of any agreement, express or implied, relating to or growing out of the management or improvement of the parks, streets, boulevards and driveways under its control, and for penalties for the violation of any ordinance, and for injury to the personal or real property appertaining to the parks, streets, boulevards, driveways or other grounds belonging thereto, and to recover the possession of any such property. All rules and regulations which such board shall at any time adopt under and in pursuance of the provisions herein contained shall be published for at least ten days in a newspaper of general circulation printed in such city. The said board shall have full, complete and exclusive authority, subject to the laws of the state, and the powers of the common council relating thereto, to expend for and on behalf of such city all sums of money appropriated by the city council from the general revenues of the city for park purposes, and all money that may be realized by such board of park commissioners from the sale of privileges in the parks, or from any other source, and money realized from the sale of bonds of the city, and set apart for park purposes; and the common council of such city shall from time to time appropriate out of the general revenues of the city a stated sum to be set apart for the use of the department of public parks, and may borrow money for the use of such department, and may issue the bonds of the city therefor as provided by law for the general purposes of such city; but the said board shall have no power to contract debts beyond the amount so appropriated. No franchise shall be granted by the city authorities for the construction or maintenance of any railway lengthwise upon any parkway or park boulevard.

Sale of Park Land—Authority Over Adjacent Land.

SEC. 146. If such board of park commissioners in any city of the first or second class should wish to sell any part of the park lands now owned by such city or that may hereafter be acquired, it is hereby authorized to prepare an ordinance authorizing such sale and submit the same to the city council. If the council shall pass such ordinance, such lands shall be sold as other lands of the city are sold, and the proceeds of such sale shall be expended in the improvement of the remaining park lands or in the purchase of other lands for park purposes, as such board may deem for the best interests of the city. Such boards may establish a line determining the distance at which all structures to be erected upon any premises fronting any park, parkway or park boulevard shall be erected; and may, in the name of the city, acquire by condemnation the right to prevent the erection of, and to require the removal of, all structures outside of such lines; and when so condemned no permit shall be issued authorizing any structure outside of the line or lines so established. The establishing of any building line outside of any boulevard or park, as herein provided, in connection with the condemnation of the land for the same, shall be understood to be the condemnation and the perpetual annihilation of all rights of the owners of property which shall front on such park, parkway or boulevard, or across which such building line shall run, to erect any building or structure whatever or any part thereof between such building line and such boulevard, park or parkway; or such result may be accomplished by absolute condemnation of the land, with perpetual and irrevocable free license to use and occupy fifty feet in the width of the same for all purposes except the erection of buildings or other structures, as such board shall determine to be most effective. No subdivision into lots of any lands, lying within five hundred feet of such boulevard, parks, or parkways shall be valid without the approval of such board of park commissioners; and the board shall also have the power to forbid by general order or rules and to abate any horseracing, gambling, offensive or dangerous business or amusement within five hundred feet of any such boulevard, park or parkway, and the right to use such adjacent lands for any such purpose shall be deemed to be included in any gift, donation or assessment and condemnation above provided for. But no lawful business carried on upon such adjacent lands at the time of acquiring the same shall be prohibited or abated without a fair valuation and due and full compensation.

Wheelways in Parks.

SEC. 147. The board of park commissioners in every city of the first or second class shall have power to construct and maintain, in connection with the parks of any such city, public paths

or wheelways, for the use of bicycles that are propelled by the power of the rider only and shall have jurisdiction for that purpose to a distance of ten miles from the limits of such city. The said board shall have power to acquire the necessary land for the construction of such paths or wheelways, by gift, devise or purchase; or if the board can not agree with the owners, lessees, or occupants of any real estate over which it may desire to construct and maintain such ways, it may procure the condemnation of the same in such manner as is now or may hereafter be provided by law for the condemnation of land for park or other public purposes. Such paths or wheelways shall be open for use by the public, free of charge, subject to such rules for their protection and preservation, and for the maintenance of order thereon, as may, from time to time, be prescribed by the board of park commissioners; and the board may appoint custodians of such ways, for the purpose of keeping them in proper condition for use, and for the maintenance of order thereon. Such custodians shall be vested with police powers by the board of public safety of such city, and shall have the same power as peace officers upon such ways as are possessed by the regular police officers of such city. It shall be unlawful for any person, except employes of such board in the line of their employment, to ride or drive upon such paths or wheelways with any animal or vehicle, or for any person to break down or remove any fence or other protection erected to prevent encroachment upon any such wheelways, or to suffer or permit any animal subject to his or her control to trespass or be thereon, or for any person to violate any rule prescribed by such board for the protection, preservation and beautifying of such paths or ways. It shall be unlawful for any person to maintain upon or along the line of such ways any building, room, stand, booth or other place for the sale of any articles unless licensed so to do by such board of park commissioners. Any person violating any of the provisions of this act in relation to public parks in any such city, or violating any rule prescribed by such board of park commissioners for the government of those using such parks, boulevards, parkways or wheelways, or for the protection, preservation or beautifying of the same, or for the maintenance of order thereon, and in such parks, parkways, wheelways and boulevards, shall, on conviction, be fined not exceeding fifty dollars.

Donations of Property—Control.

SEC. 148. Real and personal property may be granted, devised, bequeathed or conveyed to any such city for park purposes or for the improvement or ornamentation of any park, playground, boulevard, pleasureways, parkways, wheelways, or other public

grounds, or for the establishment and maintenance in such parks of gardens for horticulture and floriculture, and of museums, zoölogical gardens, collections of natural history, observatories, libraries, fountains, monuments or works of art, upon such trust or conditions as may be approved by the board of park commissioners of such city; and all such property or the rents, issues and profits thereof shall be subject to the exclusive management and control of the said board. Such board shall also provide such accommodations, and take such steps as the money at its disposal will justify, for securing and preserving collections of natural history and the establishment of museums in the parks of such city. But all such property and the rents, issues and profits thereof, must be subject to the management and control of such board, and may be improved, added to and changed in its discretion, and shall be protected, preserved and arranged by such board for public use and enjoyment, under such rules and regulations as the board shall from time to time prescribe. Admission to such gardens, museums and other collections shall be free to the public. The board may also agree for the management and maintenance of any of such gardens or other institutions, with any society, incorporated or to be incorporated under the laws of this state; but such gardens or other institutions shall always remain free to the public, subject to the control of the board of park commissioners.

Power Over Waterways, Etc.

SEC. 149. The said board of park commissioners shall have power to keep open rivers and streams or waterways, and to prevent the deposit or maintenance of unsightly or obnoxious material in or along the same, to provide for the protection of the banks thereof, and to make such rules and regulations concerning such streams and the banks thereof as shall in its judgment be necessary for such purposes; and the common council of such city is empowered to provide for the enforcement of such rules by ordinance with suitable penalties. Such board shall have power to provide for the damming or changing the course of any river, stream or waterway within the boundaries of any park, so as to provide water for use in such park for sprinkling, boating or other purposes; also to provide pools or artificial lakes in such parks; and to construct all necessary bridges and viaducts over, or tunnels under, rivers, water courses or railroads within or bordering on the line of such parks, boulevards or pathways.

Condemnation of Land.

SEC. 150. The said board of park commissioners are authorized to exercise the power of eminent domain within such city, for

the purpose of carrying out any of the provisions of this act. And in case said board of park commissioners can not agree with the owners, lessees or occupants of any real estate selected by them for the purposes herein set forth, they may proceed to procure the condemnation of the same as hereinafter provided, and in addition thereto, when not in conflict nor inconsistent with the express provisions of this act, may proceed under the general laws of the state of Indiana for condemning the right of way for the purposes of internal improvement, which may be in force at the time, and the provisions of such laws are hereby extended to park boulevards, parks, parkways, and park commissioners to be created by this act, so far as the same are not in conflict or inconsistent with the terms of this act.

Boulevard Assessment—Damages—Benefits.

SEC. 151. Whenever said board of park commissioners shall by resolution determine to construct a boulevard it shall adopt plans and specifications therefor and require its superintendent and engineer to submit his estimate of the cost thereof. Should said board desire to condemn any grounds selected by them for the purpose of a boulevard or shall have selected any grounds for such purposes and secured a contract or agreement for the same by purchase or otherwise, they may apply to the judge of the circuit court for the county in which the real estate, or the real estate to be affected thereby, may be situated for the appointment of three disinterested freeholders of said county as assessors, and thereupon such court shall appoint three assessors, qualified as aforesaid, for the purposes provided in this act. The said assessors shall proceed to assess damages and benefits upon the property or appurtenances thereto belonging, by them deemed to be injured or benefited by reason of the improvements occasioned by the location and construction of such boulevard as near as may be in proportion to the injuries or benefits resulting thereto: *Provided,* That not more than fifty per cent. of the cost of any such location and construction in the aggregate shall be assessed as benefits and the remaining cost thereof shall be paid out of the general fund of such city: *Provided, further,* That all the said assessments of benefits shall be made upon all of the lots and lands situated within six hundred feet of the boundary of such boulevard in proportion to the benefits received: *And, provided, further,* That no assessment of benefits shall be made in excess of fifteen per cent. of the value of the land so assessed exclusive of the improvement upon the land so assessed. The damages, if any, occasioned by the taking or condemnation of the land or easement as aforesaid and in general the form and the particulars of such proceedings and assessments, when not inconsistent with

this act, shall be as near as may be the same as required by the laws in force at the time governing such city for the condemnation of land for and laying out of streets. Whenever said board of park commissioners shall have determined to have condemned any ground selected by them for park purposes, they shall proceed to acquire or condemn said grounds in the same manner as is herein provided for the condemnation of lands for boulevards, except that the entire cost thereof shall be paid out of the funds of said city: *Provided,* That any aggrieved party in such condemnation proceedings shall on appeal to the circuit court be entitled to a trial by jury.

Powers and Duties of Assessors.

SEC. 152. Before entering upon the duties of their office, said assessors shall make oath, before the clerk of said county, faithfully and impartially to discharge the duties of their office. They shall give at least ten days' notice in at least one of the daily papers published in such city, of the time and place for their meeting for the purpose of making such assessment, and may adjourn from time to time until the same shall be completed. In making such assessment said assessor shall estimate the value of the several lots, blocks, and parcels of land deemed benefited as aforesaid, and shall include the same, together with the amount assessed as benefits, in the assessment roll, and shall estimate the damages to the several lots, blocks and parcels of land, which shall be taken or injuriously affected by said improvement, and shall include the same, together with the several amounts assessed as damages in said assessment roll. All parties may appear before said assessors and be heard touching any matter connected with the assessment. When the same shall be completed by the said assessors it shall be signed by said assessor and returned to said board of park commissioners, who shall fix a day upon which they will review, revise and correct such assessment, and shall give at least ten days' notice by publication in some daily newspaper published in such city, of the time and place when said commissioners will meet and consider said assessment. The said commissioners shall have power to adjourn such hearing from time to time and in their discretion to revise and correct the assessment as to damages, benefits, or otherwise, and confirm or amend the same, or refer the same back to said assessors for revisal or direct a new assessment to be made; said assessment, when confirmed by said commissioners, shall be final and conclusive upon all parties interested therein, except as hereinafter provided. When such assessment is confirmed by said commissioners they shall make a copy thereof as corrected by them and file the same, together with their certificate of confirmation, in the court which shall have appointed such assessors; and they shall

also file therewith all such objections as shall have been made to them, in writing, to said assessment at the hearing hereinbefore provided for. Said board shall thereupon give at least ten days' notice in one or more of the daily papers published in such city, of the filing of said assessment roll, and that they will on a day therein named, apply to such court for confirmation of the same, which notice shall be published at least ten days before the time fixed for such application. Said court shall have the power to revise, correct, amend or confirm said assessment in whole or in part and may make or order a new assessment, in whole or in part, and revise and confirm the same upon like notice. All parties may appear before the said circuit court either in person or by attorney, when such application shall be made, and may object to said assessment, either in whole or in part, provided all objections be in writing and shall be filed at least three days before the time fixed for application, and shall specify the lot, block or parcel of land on behalf of which objection is made, and any party so objecting shall be entitled to a trial by jury of the objection so made. After the confirmation of the said assessment the clerk of the said circuit court shall file a copy thereof under the seal of the said court with the department of finance, and from that time the respective amounts of the benefits therein assessed shall severally be liens superior to all other liens, except taxes, against the respective lots or parcels of land upon which they are assessed. Said department of finance shall at once prepare a duplicate of said assessment roll of benefits, the same to be known as the local assessment duplicate, and deliver the same to the treasurer. The duties of the treasurer and the department of finance, in respect thereto, shall be the same as are or may be hereinafter prescribed by law in such cities with regard to assessments for street improvements. Said assessments or benefits shall be due and payable to the treasurer from the time of the delivery of said assessment duplicate to the treasurer. If not paid within sixty days thereafter such city, by its attorney shall proceed to foreclose the liens in a court of competent jurisdiction as mortgages are foreclosed, with similar rights of redemption, and have the same sold to pay such assessments, such city shall recover costs, with reasonable attorney's fee, and interest, from the expiration of sixty days, hereinbefore allowed for payment at the rate of six per cent. per annum. In all cases where the party against whom the assessment is made is a resident of such city, demand for the payment of the same shall be made by delivery to him personally, or leaving at his last and usual place of residence, a notice of such assessment and demand for payment: *Provided,* That all persons assessed for benefits may within thirty days after the confirmation of such assessments

as aforesaid avail themselves of the payment of such assessments in installments in the same manner as provided for the payment of assessments made for the improvement or paving of streets in such cities.

Payment of Damages—Certificates—Benefits.

SEC. 153. Said board of park commissioners shall have power to determine what, if any part of the damages awarded, shall be paid out of the funds set apart for the use of said board by the common council, or received from other sources. All benefits assessed and collected by the treasurer shall be subject to draft, in the usual manner, upon certificate by the board of park commissioners in favor of the person to whom damages may have been awarded. Any surplus remaining above actual awards shall belong to the general park fund, and be subject to the control of the said board of park commissioners. Said board may delay proceedings until such benefits have been collected. It shall be the duty of the board of park commissioners, upon the completion of the award of damages, or whenever the time for delay as above mentioned shall have expired, to make out certificates for the proper amounts and in favor of the proper persons, upon the presentation of which to the head of the department of finance, and such persons shall be entitled to a warrant on the city treasury. Such certificates or vouchers shall, whenever practicable, be tendered actually to the person entitled thereto, but where this is impracticable the same shall be kept for such persons in the office of the board of park commissioners and the making and fixing of such certificates shall, in all cases, be deemed to be a valid and effectual tender to the person entitled thereto, and the same shall be delivered to him on request. In case of dispute, or doubt as to which of the various persons said money shall be paid, said board shall make out the certificate in favor of the city attorney for the use of the persons entitled thereto, and said attorney shall thereupon draw the money and pay the same into court in a proper proceeding, requiring the various claimants to interplead and have their respective rights determined. In any case where an injunction is obtained because damages have not been paid or tendered, said board shall tender such certificate for the amount thereof with interest from the time of entry upon the property, if any, has been made, and all accrued costs, and thereupon the injunction shall be dissolved. The pendency of an appeal shall not affect the validity of a tender made under this section, but such city shall be entitled to proceed with its appropriation of the property in question.

Payment to Owners—Title to Lands.

SEC. 154. From the funds derived from such assessments and from the other funds of such city applicable to such purpose the said board of park commissioners shall pay to the parties entitled thereto the amounts respectively due them for any lands so taken. In case said lands or any part thereof are secured by purchase or contract such payment shall be made according to the terms of such contract, and in case of any lands taken by condemnation as herein provided the amount of damages so assessed shall be paid or tendered as herein provided, within ninety days after the final determination of the proceedings herein provided, and thereupon the title of such lands, ways, building lines, easements, boulevards and parks, or that portion thereof so paid for or otherwise acquired for such purpose, shall become fixed and vested in such city in the manner, to the extent, for the purpose and subject to the limitations hereinbefore provided.

Recording Land Descriptions.

SEC. 155. Within sixty days after any land or right therein is acquired or taken under this act the board shall file and cause to be recorded in the recorder's office in the county in which the land is situated a description thereof sufficiently accurate for its identification, with a statement of the purpose for which it is required or taken, which shall be signed by a majority of the board.

HARBORS.

Construction or Improvement of Harbors.

SEC. 156. Any city situated upon or adjoining any harbor connected with a navigable stream or lake, or upon any natural watercourse, which, by dredging or otherwise, may be made into a harbor, is hereby authorized to construct a new harbor, or to extend, widen, deepen, repair or otherwise improve any harbor now or hereafter made, or in process of construction; and, for that purpose, may loan the credit of the city, as is now provided by law in cases of other public improvements. Such city may undertake and perform the work of constructing or improving such harbor without letting the same on contract, if the common council shall deem best; in which case the work shall be under the supervision of the board of public works, or, in cities of the fifth class, a committee of the council, as in case of other public improvements. Estimates of work on which payment is demanded shall be made by the city civil engineer and approved by the proper board or committee, as in other cases. If such work is let by contract the same shall first be advertised; and in all cases,

plans and specifications shall first be prepared and placed on file, and bonds shall be required of contractors, as in other cases. The right of the city to condemn necessary land, buildings, waterways and other property shall be the same as in condemnation of such property in case of the opening of streets. All cities adjacent to or within which any public harbor may be located, or may hereafter be constructed, shall have power to regulate all harbor channels, slips or other water-ways, sea walls and docks, and to repair those already constructed, and may, by ordinance or resolution, compel all land owners whose lands border on such harbor, channels, slips or water-ways, to make and construct proper sea walls and docks, so as to prevent the washing or filling in of earth or other substance into such harbor, channels, slips or water-ways. Such ordinance or resolution shall prescribe the manner in which such work shall be done by such property owner or owners, the notice to be first given them; and in case of failure or refusal of any such property owner to do such work, shall provide for doing the same by contract, let to the lowest and best bidder and shall provide further for the assessment of benefits and damages for the construction of such work, and for the collection of assessments therefor, by placing the same upon the tax duplicate, or by foreclosure of lien, and for the issue of bonds to be paid out of such assessments, all as provided for in this act concerning streets and other public improvements, so far as such provisions are applicable thereto and in aid thereof.

LEVEES.

Construction of Levees—Procedure.

SEC. 157. Whenever the board of public works of any city of the second, third or fourth class, or the common council of any city of the fifth class, is of opinion that the construction, maintenance, repair or improvement of any levee is necessary for the protection of the city or the property within the corporate limits thereof, such board or common council may, by resolution, cause surveys and estimates of the cost thereof to be made; and, on the return of such surveys and estimates, such city may provide by ordinance for doing the work by contract, and may appropriate money therefor from the general funds, or may levy a tax therefor, not exceeding four per cent. on the valuation of property in such city, or may provide for the expense of such work by assessment of benefits on the property benefited as in the case of the opening or improvement of streets: *Provided,* That the taxes and benefits assessed may be divided into not exceeding six equal parts and be collected and paid in annual installments. The whole tax and

benefits may be anticipated in contracting for work and to the extent anticipated shall be irrevocably appropriated to such payment until completed. For the purposes herein provided the jurisdiction of the city is extended four miles beyond the corporate limits and the lands to be protected may all be assessed with benefits. And authority is given to the city to enter upon the lands and make surveys, doing no unnecessary damages and to purchase, receive conveyances of and hold the necessary lands for right of way, and construction and maintenance. In case such lands can not be so obtained by contract, they may be condemned and taken by the city as railroad corporations are authorized by law to condemn and take real estate for right of way and other railroad purposes, except that the surveys, location and plan of the lines or a copy thereof shall be filed in the recorder's office of the county and in the city clerk's office and no other map or profile shall be required; which survey and plan shall be certified by the city clerk, under seal, as the survey and plan adopted by the common council or a true copy thereof. The city clerk shall copy from the duplicate the lands and benefits assessed outside of the corporate limits of the city and certify the same under the seal of the city and deposit the same with the county treasurer in his office, and it shall be his duty to collect the same annually as required by ordinance under this act and pay the money to the city treasurer when requested by him, deducting the fees allowed by law for collecting other taxes. And the duplicate required by this act and said transcript filed in the county treasurer's office shall be due notice of the lien of taxes and benefits assessed. The county treasurer shall report to and make settlement with the common council as to such benefits the same as he is required by law to do with the board of commissioners and shall advertise and with the county auditor sell the lands of delinquents as required by law for other delinquent taxes and make certificates of purchase and conveyance as required by law, with like force and effect. All provisions of this act for the appropriation of lands for the opening of streets and for the assessment of benefits and damages therefor, and all provisions for the improvement of streets, so far as applicable, are hereby extended to proceedings for the construction of such levees and the taking of lands therefor, and for the repair and improvement of the same.

D. DEPARTMENT OF PUBLIC SAFETY.

Board of Public Safety—Appointment, Etc.

SEC. 158. The department of public safety shall be under the charge of a board of three commissioners to be appointed by the mayor of such city, as hereinbefore provided: *Provided, how-*

ever, That in cities of the third class, on the adoption of an ordinance therefor, and in cities of the fourth class without such ordinance, the board of public works, in addition to its powers and duties as such board, shall exercise all the powers and perform all the duties in this act assigned to and required of the board of public safety. Not more than two of such commissioners shall be of the same political party. Such commissioners shall each give bond to such city in the sum of three thousand dollars, to be approved by and filed with the city controller, for the faithful performance of their duties respectively, as required by this act and by ordinance. Such board shall have the care, management, supervision and exclusive control of all matters and property relating to or connected with the fire and police forces, to the fire-alarm telegraph, fire escapes, the inspection of buildings and boilers, market places and the food sold therein, and to pounds and prisons. Such board shall have power to purchase all necessary supplies and apparatus and make all repairs needed in its department, subject to the same provisions as are in this act prescribed for the exercise of similar powers by the department of public works. Such commissioners, in cities of the first class, shall receive an annual salary of six hundred dollars each; and, in cities of the second and third classes, an annual salary of four hundred dollars each. Such salaries shall be in full compensation whatever for all services of such commissioners. All persons so appointed shall serve during good behavior and shall be of good moral character and be able to speak and write the English language. Such commissioners shall have power, for cause assigned on a public hearing, and on due notice according to rules to be promulgated by them, to remove or suspend from office, or for a definite period deprive of pay, any officer or member of such police force, except that detectives may be dismissed at any time by said commissioners, and they shall have power to make general and special rules and regulations for the government and discipline of said force, and to make and promulgate general and special orders to said force, through the superintendent of police, who shall be the executive head of the force: *And, provided, further,* That in any city in which a board of metropolitan police commission is now or may hereafter be established by law such board of metropolitan police commissioners shall have full control and management of the police officers of such city in accordance with the laws providing for the creation of such boards and prescribing the duties of such police commissioners, and nothing herein shall be construed as affecting the control or management of the police department in any city or cities now or hereafter operating under the laws establishing such board of police commissioners.

Rules—Quorum—Clerk—Police—Firemen—Salaries.

SEC. 159. Any two of the commissioners of public safety shall constitute a quorum. They shall adopt rules and regulations with regard to the time of the holding of regular and called meetings and of giving notice thereof; and shall elect one of their number as chairman who shall hold such position as long as may be prescribed by the rules of the board. The commissioners shall cause all of their proceedings to be recorded. In cities of the third and fourth classes, they shall designate one of their number to act as clerk; but, in cities of the first and second classes, the board may appoint as clerk a person not a member of the board. Such clerk, in such cities of the first and second classes shall receive a salary of one thousand dollars a year, which may be increased by ordinance to a sum not exceeding fifteen hundred dollars. He shall give bond for the faithful discharge of his duties as clerk of the board of safety in the sum of five thousand dollars, to be approved by the mayor and filed with the city controller. Such commissioners shall act only as a board, and no member thereof shall have power to bind the board, or the city, except pursuant to a resolution entered in the records of the board authorizing him to act in that behalf as its authorized agent. The board shall appoint a chief of police, a chief of the fire force and all other officers, members and employes of such fire and police forces, together with a market master, station-house keeper, and other officials that may be found necessary for such department of public safety. The annual pay of all policemen, firemen and other appointees shall be fixed by ordinance of the common council; and it shall be lawful in such ordinance to grade the members of such forces and to regulate their pay, not only by rank, but by their length of service. In default of any ordinance fixing the compensation of any member of such fire or police force, such commissioners shall have the power to fix the same, subject to change by ordinance. The commisioners, subject to ordinance, may also fix the number of members of such fire and police forces, and the number of appointees for other purposes. They shall, in like manner, divide such city into police precincts and fire districts; and they shall have power, subject to the laws of the state and the ordinances of the city, to make and promulgate rules and regulations for the appointment of members on such forces, and for their government: *Provided,* That such forces shall be, as nearly as possible, equally divided politically, and no member thereof shall be dismissed except for cause, as provided in the next section. The chief of police shall have exclusive direction and control of the police force, and the chief of the fire force shall have exclusive control and charge of such fire force, subject to the rules, regulations and orders of the department of public safety. In

time of peril, danger, riot, extensive conflagration, disorder, or the apprehension thereof, the chief of the fire force and the chief of the police force shall, for the time being, be subordinate to the mayor and obey his orders and directions, anything to the contrary in this act or in the ordinances of such city, or in the regulations or orders of such commissioners of public safety, to the contrary notwithstanding.

Fire and Police Forces—Removals—Procedure.

SEC. 160. Every member of the fire and police forces, and all other appointees of the commissioners of public safety, shall hold office until they are removed by the board. They may be removed for any cause other than politics, after an opportunity for a hearing is given, if demanded, and the written reasons for such removal shall be entered upon records of such board. On the conviction of a member of the said fire or police force of any criminal offense or neglect of duty, or of the violation of rules, or neglect or disobedience of orders, of incapacity, or absence without leave, or immoral conduct, or conduct injurious to the public peace or welfare, or conduct unbecoming an officer, or other breach of discipline, such commissioners shall have power to punish the offending party by reprimand, forfeiture, suspension without pay, dismissal, or by reducing him to a lower grade and pay. Upon any investigation of the conduct of any member of the fire or police forces or upon the trial of any charge preferred against any member of either of such forces, such board of commissioners shall have power to compel the attendance of witnesses, and the production of books, papers and other evidences, at any meeting of such board, and for that purpose may issue subpoenas and cause the same to be served and executed in any part of the county where such city is located. The provisions of section fifty-four of this act, in respect to any witness who shall refuse to testify, or to produce books or papers in his possession or under his control, in investigation and impeachment proceedings before the common council, or any committee thereof, so far as applicable, shall govern in like cases before such board of public safety; and the proper court may compel by attachment, commitment or other punishment in compliance with its orders.

Powers of Policemen.

SEC. 161. The officers and members of the police force of every city shall possess all the common law and statutory powers of constables, except in relation to the service of civil process; and any warrant of search or arrest, issued by any judge, or magistrate, or justice of the peace of this state, may be executed in any part thereof by any member of such police force, subject to the

laws of this state governing arrest and bail. The members of such police force shall have the exclusive power, and it shall be their duty to serve all process within such city issuing from the city court. They shall be conservators of the peace in such city, and shall arrest without process all persons who within view commit any crime or misdemeanor contrary to the statutes of this state, or ordinances of such city, take them before the city court or judge of such city, or other officer having jurisdiction of the offense with which such person is charged, and retain them in custody until the cause of such arrest has been investigated, and shall suppress all breaches of the peace within their knowledge; and authority is hereby given them to call to their aid the power of such city, and to pursue and commit to jail all felons and persons guilty of misdemeanors or crimes in violation of the statutes of this state or of the ordinances of such city. They shall have the exclusive power, and it shall be their duty to serve all process issued by the common council or any committee thereof pursuant to this act, or by any of the executive departments of such city. They shall attend upon the city court and assist the bailiff to preserve order in such court. The members of the police force, under the direction of the chief of police, shall convey prisoners to and from the county jail or station houses of such city for arraignment or trial in the city court, or to the house of correction, workhouse, reform school, county jail or other place of punishment or imprisonment, under judgment, sentence, order or process of such court.

Additional Fire and Police Forces.

SEC. 162. Such commissioners shall have power, on application of any person or corporation, if deemed expedient, to detail regular policemen or firemen or appoint and swear any additional number of special policemen or firemen to do special duty at any place within such city, or within the county in which such city is located, upon such person or corporation paying for the use of such duty the same rate per diem of service on such detail of special duty as is paid to the regular members of the force; and shall have power, when deemed expedient, to make such detail without application of any person or corporation or payment of per diem. Such special patrolmen shall be subject to the chief of police and such special firemen to the chief of the fire force. They shall obey the rules and regulations of their respective departments, conform to its discipline and orders, and wear such dress or badge as the commissioners may direct, and shall, during the term of their appointment, possess all the powers, privileges and duties of regular patrolmen or firemen. Such persons so appointed may be removed at any time by such commissioners without notice and without assigning any cause. The commissioners may also, on

emergency, apprehension of riot, tumult, mob or insurrection, pestilence or invasion, appoint as many special patrolmen as may be desirable, to be paid the same rate per day and possess the same powers, privileges and duties as members of the regular force, and be subject to the same ordinances, regulations and orders. Such commissioners may also detail members from the regular forces for the use of the department of health, or any other department of the city government.

Oaths—Who May Administer.

SEC. 163. Such commissioners and chiefs of the fire and police forces are authorized to administer oaths to any person summoned in any proceeding authorized by this act, or to take any depositions under the rules, regulations or orders of the department of public safety.

Duties of Police Force.

SEC. 164. It is hereby made the duty of such police force, and the members thereof are specially empowered, at all times, within such city, to preserve peace; prevent crime; detect and arrest offenders; suppress riots, mobs and insurrections; disperse unlawful and dangerous assemblages, and assemblages which obstruct the free passage of public streets, sidewalks, parks, and places; protect the rights of persons and property; guard the public health; preserve order at elections and public meetings; direct the movement of teams and vehicles in streets, alleys or public places; remove all nuisances in public streets, parks or highways; arrest all street beggars and vagrants; provide proper police assistance at fires; assist, advise and protect strangers and travelers in public streets or at railroad stations; carefully observe and inspect all places of business under license, or required to have the same, all houses of ill-fame or prostitution, and houses where common prostitutes resort or reside, all lottery or policy shops, all gambling houses, cock pits, dance houses and resorts; and to suppress and restrain all unlawful or disorderly conduct or practices, and enforce and prevent the violation of all ordinances and laws in force in such city. The chief of police and each captain in his precinct shall possess the power of supervision and inspection over all pawnbrokers, venders, junk-shop keepers, cartmen, expressmen, dealers in second-hand merchandise, intelligence offices and auctions; and any member of such force may be authorized, in writing, by the chief to exercise the same powers. Such chief or any captain may, by written authority, empower any member of such police force, when in search of stolen property, of evidence, or of suspected offenders, to examine the books, business or premises of any of the persons named in this section and to examine property in whosesoever possession the same shall be.

Gaming.

SEC. 165. If any member of such force, or if any two or more householders in such city, shall report in writing, under his or their signature, to the chief of police, that there are good grounds, stating the same, for believing that any house, room or premises within such city are kept or used as a common gaming house, room or premises for therein playing for wagers or at any game of chance, or that such premises are kept for lewd or obscene purposes of amusement, or for the deposit or sale of lottery tickets or policies, it shall be lawful for such chief, in writing, to authorize any member of such police force to enter such premises; and the officer so appointed shall forthwith arrest all persons there found offending against the law, and seize all instruments of gaming or lottery tickets, and deliver the same to the chief, who shall destroy them.

Arrest and Trial of Offenders.

SEC. 166. Whenever any arrest has been made by any member of such police force, it shall be the duty of the officer making the arrest forthwith to bring the person arrested before the city court, or court having jurisdiction of the offense, to be dealt with according to law. If the arrest is made during the hours when such court is not in session, or if the judge is not holding court, such offender shall be detained in the city prison until there shall be an opportunity for such hearing at the earliest practicable time, or until he shall have given bond for his appearance. But no person shall be so detained longer than twenty-four hours without such examination, except where Sunday intervenes, in which case no person shall be detained longer than forty-eight hours. Any person or corporation who shall interfere with such commissioners of public safety, or their appointees, in the legal discharge of their duties, shall, on conviction, be fined not more than one thousand dollars, to which may be added, in case of any person so offending, imprisonment for not more than ninety days.

Political Work Prohibited—Penalty.

SEC. 167. It shall be unlawful for such commissioners of public safety, or any persons appointed by them or by their predecessors, or holding any position on such fire or police forces, to solicit any person to vote at any election for any candidate, or to challenge any voter, or in any manner attempt to influence any elector at such election, or to be a delegate or candidate for delegate to any political convention, or to solicit for any candidate for, or delegate to, such convention, or to be a member of any political committee. Any person violating any of the provisions

of this section shall be fined not exceeding five hundred dollars, to which may be added imprisonment in the county jail not exceeding six months.

Bonds of Appointees.

SEC. 168. Such commissioner shall have power, subject, however, to city ordinances, to adopt rules regulating the giving of bond by any appointee or class of appointees in such department for faithful performance of official duty.

Insurance Fund.

SEC. 169. Such commissioners may at any time draft an ordinance and submit the same to the common council, which council shall have power to enact the same as other ordinances, for the creation, management and distribution of a police insurance fund, or of a firemen's insurance fund, together with a provision for retaining a per cent. of each appointee's salary, for the creation of such fund, and prescribing the conditions of its investment and who shall be entitled to the benefit thereof: *Provided,* That the provisions of this section shall not apply to cities of the first and second classes.

Marshal, Fifth Class, Powers and Duties.

SEC. 170. In cities of the fifth class, so far as applicable, all the duties and powers in this act provided to be exercised by the chief of police shall be exercised by the city marshal, and all duties and powers of the chief of the fire force shall be exercised in such cities of the fifth class as in other cities; and all provisions for appointment, discharge, duties and powers of members of the police and fire forces shall also extend, as far as applicable, to such cities of the fifth class. And, in such cities of the fifth class, the common council may provide, by ordinance, for the exercise by committees of such council of all functions in this act provided to be exercised by boards of public safety, so far as applicable; and may also provide for the compensation of all the members of such forces.

Exempt from Jury Duty.

SEC. 171. The chiefs, assistants and members of the police and fire forces in all cities shall be exempt from jury service, and also from service in the militia, except in case of war, invasion or insurrection.

May Destroy Property Adjoining Fire.

SEC. 172. When any building in a city is on fire, or any building adjacent thereto is liable to take or convey fire to other build-

ings, to the great destruction of property, it shall be lawful for the chief of the fire force, or his assistant acting as such, with the concurrence of the mayor, or of the board of public safety, in case there be such board, to take down, blow up or destroy such building or buildings. And no action shall be maintained against any person therefor; but the owner of any such building may, in a proper case, recover damages from the city for its destruction.

STOLEN PROPERTY.

Stolen Property—Custody and Disposition.

SEC. 173. If any money, goods or other property, which has been stolen, lost or abandoned, or taken or received from a person under arrest, come into possession of a member of the police force of any city by virtue of his office, he shall deliver the same to such officer or member of the police force as may be designated by the order or rules of the department of public safety, or the common council, in case there be no such department, and shall thereupon be relieved from further responsibility therefor. If any such money, goods or other property remain unclaimed in the possession of control of any such officer to whom it has been so delivered for six months, and the owner and his place of business be unknown, such board of safety or common council shall cause such money to be paid into the city treasury, and such goods or other property to be sold at public auction, notice of the time and place of such sale, with a description of the property to be sold, being first given by publishing the same once a week for two weeks consecutively in some newspaper of general circulation printed in such city. Any such property which is of a perishable nature, or which will deteriorate greatly in value by keeping, or the expense of keeping which will be likely to exceed the value thereof, may be sold at public auction in accordance with the rules or orders of such department or common council, reasonable notice of the time and place of sale being first given by publication in some newspaper of general circulation printed in such city. The proceeds of every such sale, after deducting all reasonable charges and expenses incurred in relation to such property, shall be paid into the treasury of the city. In cities having a department of finance, the commissioners, upon payment of such money into the city treasury, shall certify to the controller, and in other cities the proper committee of the common council, shall certify to the clerk, the date and amount of money so paid in, and such controller or clerk shall keep an account of all money so paid in, and of all sums thereafter drawn from the treasury under the following provisions: If, within one year after such money or proceeds of sale of such goods have been paid into

the city treasury, the owner of any such money, goods or other property shall make claim to and prove his ownership thereof, the money or proceeds, after deducting all reasonable charges and expenses, shall be paid over to him upon the order of the head of such department. After one year such money or proceeds shall be deemed a part of the general fund of such city. The provisions of this section shall not apply to property seized upon a search warrant, the custody and disposition of which are otherwise provided for by law.

HUMANE OFFICER.

Humane Officer—Salary—Duties.

SEC. 174. In every city of this state there shall be appointed a member of the police force who shall be known as the humane officer of such city, and whose duty it shall be to attend to the detection and arrest of persons violating the humane statutes of the state. He shall receive the same pay as other police officers of the city and shall be subject in like manner to the control and discipline of the police authorities. Whenever there shall be an incorporated humane society in any city, such humane officer shall attend the stated and special meetings of such society and shall report thereto, at least once a month, on all matters relating to his duties under the law for the previous month; and whenever a humane statute of the state, or a humane provision of any ordinance, has, to his knowledge, been violated, he shall, if directed by the president of such humane society, file his affidavit before any magistrate of the city charging the person so violating the law with such violation.

POLICE MATRON.

Police Matron—Duties—Salary.

SEC. 175. The board of public safety of every city, or if there be no such board, then the mayor, may appoint a police matron, with such assistants as may be necessary, whose duty it shall be to receive, take charge of, search and properly care for, at the jail or station house, all women prisoners and all children who shall be arrested and detained in custody in such city. Such police matron, when appointed, shall be a member of the police force of such city, and shall have all the authority now delegated to a police officer, and shall be subject to such rules and regulations as shall be prescribed for her conduct by the board of public safety, or by ordinance, and may be removed by the appointing power for good cause shown. Such police matron shall have proper accommodations for herself, and for all prisoners under her control. She shall be jailer in charge of the woman's department of the station house or jail,

when such prisoners are confined in a jail, and shall have authority to summon any policeman or other person to her aid, when aid is required. Such police matron and her assistant or assistants shall be paid such compensation or salaries as may be determined by the board of public safety or the common council of such city, as in case of other members of the police force. The police matron, or her assistant, shall be in attendance in all courts when women or girls are to be tried and shall have charge of all such women or girls, whether criminals or insane, while such persons are awaiting trial or transfer to or from any place of detention. Such police matron shall not be under thirty-five years of age, shall be fully qualified and shall be of good moral character. Before appointment she must be recommended in writing by not less than twenty women and five men, all of whom shall have been residents of such city for at least five years next previous to such appointment.

POLICE PENSION FUND.

Pension Fund—Trustees—Terms—Powers, Etc.

SEC. 176. In every city of the first and second classes, there shall be and is hereby created a police pension fund: *Provided, moreover,* That the provisions of this act in relation to such police pension fund shall also apply to all other cities of this state in case the common council of any other such city shall elect to establish a board of trustees of such police pension fund; and if any other city shall so elect to establish such board, the common council of such city shall adopt an ordinance to that effect, and upon the adoption of such ordinance the provisions of this act in relation to such police pension fund and the establishment of a board of trustees to administer the same shall apply to and govern such other city, as in the case of a city of the first or second class, so far as applicable. In cities of the first and second classes, and in all other cities on the adoption of an ordinance therefor, as aforesaid, such police pension fund shall be governed and managed by a board of trustees, to be composed of nine members, as follows: The mayor, the city treasurer, the chief of police of such city, who shall be, ex-officio, members of such board, and six members of the police force of such city, to be elected at a meeting of the police force of such city, to be held at the central fire station on the second Monday in February, 1906. In case any city of the third, fourth or fifth class shall adopt the provisions of this act, such meeting shall be held at such central station on the second Monday of February thereafter. Two of such trustees so chosen shall hold their offices for one year, two for two years, and two for three years, to be determined by lot among them, and thereafter there shall be selected on the second

Monday in February of each year two trustees for a term of three years, to succeed those whose terms of office shall expire on such date. And such trustees shall hold their said offices until their successors shall be elected and qualified. In the event of a vacancy in the office of any of the six trustees selected by such police force, as aforesaid, by death, resignation or otherwise, then such police force shall, within a reasonable time, upon the call of the mayor of such city, hold a special meeting and elect a successor for the remainder of the term of such member. A majority of all such trustees shall constitute a quorum for the transaction of business pertaining to such pension fund. Such trustees shall receive no pay for their services as such, and shall be paid only their necessary expenses, except the secretary, who shall be paid out of such fund such sum for his services as may be fixed by the board of trustees. Such board shall have power to make all necessary by-laws for meetings of the trustees, the manner of their election, the counting and canvassing of the votes therefor, the collection of all moneys and other property due or belonging to such fund, and all matters connected with the care, preservation and disbursement of the same, and all other matters connected with the proper execution of the purposes and provisions of this act in relation to such police pension fund. The mayor shall be president of such board, and the city treasurer shall be its treasurer; and such board shall select one of its members to act as secretary. It shall be the duty of the president to preside over the meetings of the board, call special meetings of the police force of such city, and preside over the annual and called meetings of the same held with relation to such fund. It shall be the duty of the city treasurer to collect all moneys belonging to such fund; to have the custody of all its notes, bonds and other securities, and to collect the principal and interest of the same; and he shall be liable on his bond, as such city treasurer, for the faithful accounting of all moneys and securities which may come into his hands belonging to the fund. He shall keep a separate account, which shall show, at all times, the true condition of such fund. Such treasurer shall, upon the expiration of his term of office, account to such board for all moneys, notes, bonds and other securities coming into his hands, and the proceeds of the same, and turn over to his successor all moneys, notes and other securities belonging to such fund remaining in his hands. It shall be the duty of the secretary to keep a true account of the proceedings of such board of trustees and of such police force of such city, when acting upon matters relating to such fund; to keep a correct statement of the account of each member with such pension fund, and to collect and turn over to the treasurer of such board all moneys belonging to the fund. Such secretary shall render a

monthly account of his doings to the board of trustees, and shall turn over to his successor all books and papers pertaining to his office. Such secretary shall execute a bond to be approved by the board of trustees, in such amount as may be fixed by the board, conditioned for the faithful discharge of the duties of his trust. Such secretary and treasurer shall make full, true and accurate reports of their said trusts to the board of trustees on the first Monday in February of each year, copies of which reports shall be filed with the city controller, or city clerk in cities of the fifth class. The books of the secretary and treasurer shall, at all times, be open to examination by any member of such board of trustees.

Moneys of Fund.

SEC. 177. Such board of trustees shall have full charge and control of the police pension fund of such city, which shall be derived from the following sources:

First. Of all moneys that may be given to such board for the use of the police pension fund, by any person or persons. Such board of trustees may take by gift, grant, devise or bequest any money, choses in action, personal property, real estate or any interest therein. The board shall be authorized to take such gift, grant, devise or bequest under and by the style of "The Board of Trustees of the Police Pension Fund" of the city in which such board shall be created, and to hold the same, or assign, transfer or sell the same, whenever proper and necessary, under and by such name.

Second. Of all moneys, fees and rewards of every nature, which may be paid or given to the police force of such city, or to any member of such force, by reason of or because of any service or duty performed by such police force or members. Also, of all fines imposed by the board of public safety against any member of such force.

Third. Every member of the police force shall be assessed a part of his salary, to be fixed by the by-laws of such police pension fund, not less than one per centum nor more than one and one-half per centum per annum of such salary: *Provided, however,* That in no case shall the assessment of any one person exceed fifteen dollars per annum. The secretary of the board of trustees shall prepare a roll of each of such assessments, and place opposite the name of every member of such police force the amount of the assessment against him; and the treasurer of such board shall deduct and retain out of the salary going to such officer the amount of such assessment, and place the same to the credit of such police pension fund. Every person becoming a member of the police force shall be liable to the payment of such

assessment, and, in becoming a member of such police force, shall be conclusively deemed to undertake and agree to pay the same and have it deducted from his salary as herein required: *Provided, however,* That no member of such police force shall be subject to such assessment, nor entitled to any of the benefits to be derived from the provisions of this act, until he shall have been a member of such police force for at least two successive years.

Fourth. A sum not less than one-twentieth nor more than one-tenth of one mill shall be annually levied by such city upon each dollar of all taxable property in such city, as the same appears on the tax duplicate, which sum shall be collected by the treasurer of such city and be by him credited to the said police pension fund, and not used or devoted to any other than the purposes of such fund.

Investment of Funds—Beneficiaries.

SEC. 178. The board of trustees of such police pension fund shall determine how much of such fund may be safely invested, and how much shall be retained for the needs, demands and exigencies of the fund. Such investment shall be made in interest-bearing bonds of the United States, or of the state of Indiana, or any bonds lawfully issued by any county, township or municipal corporation of this state, or any street, sewer or other improvement bonds of any city or town of this state; and such bonds shall be deposited with and remain in the custody of the treasurer of such board, who shall collect the interest due thereon as the same becomes due and payable. Such fund shall be used and devoted to the following purposes:

First. Whenever any member of the police force of such city shall, on examination by the police surgeon or other surgeon to be appointed by the board, be found to be permanently disabled, physically or mentally, because of any injury received or disease contracted while in the performance of his duty, so as to render necessary his retirement from service on the police force of such city, then such board of trustees shall authorize the payment to such person, from the said pension fund, of a sum equal to one-half of the salary of the grade held by such officer for one year next preceding the time of his said retirement. After any member of such police force shall have been retired upon pension by reason of disability, the board of trustees shall have the right at any time to cause such retired member again to be brought before it and examined by the police surgeon, and also the right to examine other witnesses for the purpose of discovering whether such disability yet continues, and whether such retired member should remain on the pension roll; but he shall be retained on

the pension roll until reinstated in the service of the police force, except in case of dismissal or resignation. Such retired member shall be entitled to notice, and to be present at the hearing of such evidence, shall be permitted to propound any question pertinent or relevant to such matter, and shall also have the right to introduce evidence upon his own behalf. All witnesses so produced shall be examined under oath, and any member of such board of trustees is hereby authorized to administer such oath. The decision of such board shall be final, and no appeal shall be allowed therefrom, nor shall the same be reviewable by any court or other authority. Should such retired member recover from his disability and be, in the opinion of the police surgeon, again fit for active duty, then such member shall again be put on active duty and full pay, and from the time such board shall decide that such member is fit for active duty, he shall cease to be entitled to any payments out of such pension fund because of the disability for which he was retired.

Second. Whenever any member of such police force shall have been in the service of such city fifteen years or more, he shall receive from the fund a sum equal to one-half of the salary of the grade which he held for one year next preceding the time of his retirement. Any member of such police force who shall have been in the service of such city as a member of such police force for twenty years and less than twenty-five years, upon his written application to such board to be retired, shall be retired from such police force, and such member shall thereafter receive from such pension fund a sum to be fixed by such board at not to exceed twenty dollars per month; and any member of such police force who shall have been in the service of such city as a member of such police force for twenty-five years and less than thirty years, upon his written application to the board to be retired, shall be retired from such police force, and such member shall thereafter receive from such pension fund a sum to be fixed by such board, not to exceed one-half of the salary of the grade held by such person for one year next preceding the time of his retirement; and any member of such police force who shall have been in the service of such city as a member of such police force for thirty years or more, upon his written application to the board to be retired, shall be retired from such police force, and such member shall thereafter receive from such pension fund a sum to be fixed by such board at not to exceed three-fifths of the salary of the grade held by such person for one year next preceding the time of his retirement. Such person retired because of length of time served shall be retired without medical examination; and from the time of his retirement he shall not be required to render further service on such police force, nor shall he be subject to the

rules of the department, and he shall not for any reason, except as provided in section one hundred and eighty of this act, be deprived of the benefits herein provided. To entitle any one to be retired because of age, only the time served by such person upon the regularly constituted police force on which he shall then be serving shall be computed; but all time served by such person before, as well as after the taking effect of this act, shall be included in such computation. No time served by any person as a special police officer, or a police officer upon the request of any private person, firm, corporation or as a merchant policeman, shall be considered in computing the length of service of such person upon such police force.

Third. Upon the death of any member of such police force, active or retired, while in the line of duty, and as a result of the performance of his duty, or from natural causes, there shall be paid for funeral expenses a sum not to exceed one hundred and fifty dollars; and should such deceased member leave a widow, or child or children under the age of sixteen years, or both, then there shall be paid to such widow out of such fund twenty dollars per month, and to such children each six dollars per month until they arrive at the age of sixteen years respectively, to be paid to the mother of such children, if living, for their benefit, so long as such children shall reside with or be supported by her; and if such children shall reside with or be supported by some other person than their mother, then such sum shall be paid to such other person.

Fourth. If any member of such police force, active or retired, shall die, not leaving a widow or children under sixteen years of age, but leaving a father or mother dependent upon him, such father or mother (but not both) shall, upon satisfactory proof of such dependence being made to such board of trustees, receive from such fund not more than twelve dollars per month. The said board of trustees shall determine whether such parents are dependent and when they may cease to be dependent, and how much of the amount herein provided for shall be paid to them respectively: *Provided*, That if there be no widow and no child, and no father or mother, but dependent brothers or sisters, then such pension shall be paid to them. On the remarriage of any widow entitled to the benefits of such fund, or on such father or mother, brothers or sisters, ceasing to be dependent, then such payments to them shall cease. Any pension authorized as provided in this section shall be subject to reduction by the board of trustees whenever in its judgment the condition of the pension fund, the condition or necessities of the pensioner or any other circumstance makes it reasonably fair or necessary. Any pension so reduced may thereafter be restored or further reduced, as the board may deem best.

Retired Members—Duties—Examination.

SEC. 179. Any member of such police force placed on the retired list, except such as have served on such force for twenty years or more and have been retired for that reason, shall report for duty to the chief of police or marshal, from time to time, as may be provided for in the by-laws of the board, and shall be subject to the orders and discipline of such chief or marshal, and shall perform such duties as may be required of him, and for which, in the opinion of the police surgeon, he may be fit, and for which he shall be allowed full pay; and for any refusal to obey such orders and for a breach of such discipline, the said chief shall report such member at once to the board of public safety for such action as by it may be deemed proper for the good of the service; and such member shall be subject to punishment and dismissal in the same manner as officers in active service. Any pension such retired member may have received shall cease in case of his expulsion; and such pension, for any refusal to obey orders or other breach of discipline, as aforesaid, shall be subject to whatever orders may be deemed proper by the board of public safety. It shall be the duty of the police surgeon of such city to make all examinations of the members of the police force of such city whenever requested by the board of trustees of the police pension fund, or whenever any such member requests him to do so for the purpose of certifying to his physical or mental condition to such board, or whenever he deems it proper to do so; and he shall thereupon certify to such board the true physical or mental condition of such person. If, at any time, there should not be sufficient money to the credit of such police pension fund to pay all claims against it in full, claims on account of the death of members of such force, if there be any such, shall be first paid in full with as little delay as possible, after which an equal percentage shall be paid upon all other claims to the full extent of the funds on hand, until such funds be replenished so as to pay them in full. All pensions herein provided for shall be paid by the treasurer of such board at his office at the same time and in such installments as the members of the police force of such city are paid. All pensions granted and payable out of such police pension fund shall be exempt from seizure or levy upon attachment, execution, supplemental process, and all other process, whether mesne or final, and shall not be subject to sale, assignment or transfer by any beneficiary.

Forfeiture of Pension.

SEC. 180. Whenever any person who shall have received any benefit from such fund shall be convicted of any felony, or of any

misdemeanor for which he shall be adjudged to be imprisoned, or shall become an habitual drunkard, or shall become a non-resident of this state, or shall fail to report himself for examination for duty, as required herein, unless excused by the board of trustees, or shall disobey the requirements of the board in respect to such examination, or shall fail to perform such duty as may be required of him, if found able to perform such duty, then the board shall order that the pension allowed and paid to him shall cease until the further order of the board.

Existing Boards—When Control Ceases.

SEC. 181. In case there shall be, at the taking effect of this act, any city having a police pension fund governed and managed by a board of trustees created under provisions of any former laws, such fund shall remain under control of such former board until the members of the board of trustees of the police pension fund created under this act shall have been elected and qualified, and the board duly organized, when such former board shall at once turn over to the said board created under this act all the moneys, books, papers and property belonging to such police pension fund; and thereafter all books, papers and property connected therewith shall be under the sole custody, care and management of the board of trustees created under the provisions of this act, and the terms of office of the members of any such former board shall thereupon at once cease.

FIREMEN'S PENSION FUND.

Firemen's Fund—Trustees—Where Applied.

SEC. 182. In every city of the first and second classes, maintaining a regularly organized and paid fire department, there is hereby created a "Board of trustees of the firemen's pension fund," to be selected as hereinafter directed; and also a firemen's pension fund, to be derived from the sources and in the manner hereinafter provided. The said fund shall be managed, used and disbursed according to the provisions of this act and in conformity with the by-laws of such board of trustees: *Provided, moreover,* That the provisions of this act in relation to such fund shall likewise apply to all cities of the fourth and fifth classes which maintain a regularly organized and paid fire department, in case the common council of any such city shall elect to establish such board of trustees and firemen's pension fund; and if any such city elects to establish such board and fund, its common council shall adopt an ordinance to that effect, and upon the adoption of such ordinance the provisions of this act in relation to such fund and such board of trustees shall apply to and govern such city.

Composition of Board—Powers—By-Laws.

SEC. 183. The "Board of trustees of the firemen's pension fund" shall be composed of six members, two of whom shall be the mayor and chief of the fire force, who shall be, by virtue of their respective offices, members of such board. Their membership shall continue while in office, and in case of their death, resignation or removal or on the expiration of their respective terms, their successors shall be, ex officio, members of such board. The other members of the board shall be elected from the members of the fire department for the terms and in the manner hereinafter provided. The said board of trustees shall have the management and control of the said firemen's pension fund and of all matters therewith legitimately connected, and shall manage, use and disburse the same for the purposes hereinafter specified. The board shall have power to adopt and enforce such by-laws as may be necessary to enable it effectively and properly to carry into execution the purposes for which it was organized: *Provided,* That such by-laws shall not in any wise contravene the provisions of this act or the ordinances of such city. Each of such trustees shall, before entering upon the duties of his office, take an oath faithfully to perform the duties thereof. The said board of trustees shall be a body having a continuous succession, subject only to the right to modify or repeal, which is hereby reserved.

Fire Company Defined—Election of Trustees, Etc.

SEC. 184. Each organization or body of men doing duty as part of the fire force, whether in hose houses, in the telephone or telegraph service or as watchmen for fires in a tower or other place, shall be deemed a fire company within the meaning of this act; and whenever the term "fire company" or "fire companies" is used herein it shall be construed as meaning and including such organizations as those above mentioned, as well as companies having charge of engines, hose reels, or other apparatus for extinguishing fires. The four members of the board of trustees of the firemen's pension fund, selected from the members of the fire department, shall be chosen as follows: On the second Monday in February, 1906, the first election under the provisions of this act shall take place, and the chief of the fire force shall fix a time for holding a convention to nominate trustees to be chosen at such election, which convention shall be held at least five days earlier than the time for holding such first election. Such convention shall consist of one delegate from each fire company and a delegate to be selected by the chief of the fire force, and his assistant, or if there be more than one assistant, then by such chief and his assistants, acting jointly. The delegate from each fire company shall be elected by ballot by the members of such company at a

time to be fixed by the chief of the fire force in the call for such convention. The election of such delegates shall be certified by the captain or other officer of such fire company, or, if there be no such officer present, then by the oldest member thereof present. Such convention when assembled shall nominate six members of the fire force to be voted for as such trustees, and the names of the persons so nominated as candidates shall by the delegates to such convention be reported in writing to their respective companies. The said election shall be held at the houses or quarters of the respective companies on said second Monday in February, 1906, between the hours of 9 o'clock a. m. and 6 o'clock p. m. Every member of such fire company shall be entitled to one ballot, and no ballot shall contain the names of more than four persons, and the persons whose names are placed on such ballots shall be chosen from the six persons nominated by the convention. The candidate receiving the highest number of votes shall hold the office of trustee for four years, the candidate receiving the next highest number of votes shall hold office for three years, the candidate receiving the next highest number of votes shall hold office for two years, and the candidate receiving the next highest number of votes shall hold office for one year: *Provided*, That the term of office of the persons elected at such first election shall run from the second Monday in February, 1906. The captain or other officer in command of each of such fire companies on the day of and immediately after the casting of such ballots, shall canvass and count the same, and certify in writing the number of ballots cast and the number of votes received by each candidate for the office of trustee. After signing such certificate, such officer shall enclose the same, together with all the ballots cast by such fire company, in an envelope, securely sealed and addressed, and deliver the same to the chief of the fire force of such city, who shall deliver the same to the mayor as soon as all such certificates and ballots have been received by him. The mayor, upon the receipt thereof, shall, in the presence of such chief of the fire force and the city clerk, open such envelopes, examine such certificates, and ascertain and determine the total number of the votes so cast at such election for each of such candidates for the office of trustee, and shall issue certificates of their election to the four candidates having received the highest number of votes. In case any two or more candidates shall have received the same number of votes, so that there would be no choice under the foregoing provision, then such mayor and chief of the fire force shall forthwith by lot determine from the persons so receiving such equal number of votes who shall be trustee. No election shall be set aside for want of formality in balloting by such members, or certifying or transmitting returns of any such election by the officers in charge. In case any city of the third,

fourth or fifth class shall adopt the provisions of this act, such first general election shall be held on the second Monday of February thereafter. The subsequent regular elections, after such first election, shall be held on the second Monday in February in each year, beginning with February, 1907. At each such regular election, one trustee shall be elected for a term of four years. The provisions of this section as to the mode of calling the convention, selecting the delegates, conducting the election, the preparation of ballots and all other like matters, as well as to the certificates of election, the decision in case of a tie and all matters of like nature, shall govern the holding and conducting of regular elections. The chief of the fire force shall be president of the board of trustees of the fireman's pension fund. At the first meeting after each election such board of trustees shall elect a secretary, who may be chosen from one of its own number: *Provided,* That if the board deem proper, a secretary who shall be a member of the fire department may be elected by the companies, to serve for a term of four years, the election to be conducted in the same manner as the election for trustees. It shall be the duty of the secretary to keep, in a book provided for that purpose, a full record of all the proceedings of such board of trustees; and the board shall make all needful rules and regulations for its government in the discharge of its duty, and shall hear and determine all applications for relief or pensions under this act.

Pension Fund—Of What It Consists.

SEC. 185. Such pension fund shall consist:

First. Of all moneys that may be given to such board or fund by any person or persons for the uses and purposes for which such fund is created. And such board of trustees may take by gift, grant, devise or bequest any money, personal property, real estate, or any interest therein, or any right of property; and any such gift, grant, devise or bequest may be absolute or in fee simple, or upon the condition that only the rents, income or profits arising therefrom shall be applied to the purposes for which such fund is established.

Second. Of all moneys, fees, rewards or emoluments of every nature and description that may be paid or given to the fire force or any of the fire companies.

Third. Every member of such fire force shall be assessed a part of his salary, to be fixed in the by-laws of the board, not less than one per centum nor more than one and one-half per centum per annum of such salary. The secretary of the fire force, or the person whose duty it may be to make out pay-rolls, shall place opposite the name of every member of such force, on the pay-roll, the amount of assessment on each individual's

salary, and the city treasurer, or county treasurer acting as city treasurer, shall, monthly, deduct from the salary of every member of such fire force the sum set opposite his name, and shall place the same to the credit of the firemen's pension fund. Every person who becomes a member of the fire force shall be liable to the aforesaid assessment, and, in becoming a member thereof, shall be conclusively deemed to undertake and agree to pay the same and to have it deducted from his compensation as herein provided.

Fourth. A sum not less than one-twentieth nor more than one-tenth of one mill shall be levied on each dollar of the value of all the taxable property annually assessed in any such city, as the same appears on the tax duplicate, which sum shall be set aside and made part of such firemen's pension fund by the city treasurer, or county treasurer acting as city treasurer: *Provided*, That the said sum shall not be used for or devoted to any purpose other than that herein specified.

Investments—Accounts—President's Bond.

SEC. 186. The board of trustees of the firemen's pension fund may, at any time after considering the probable demands upon such fund, determine what part thereof may be safely drawn therefrom for investment for revenue purposes; and having so determined, shall enter their proceedings at length upon their record, and shall cause a warrant to be drawn for such amount payable to the order of its president, which warrant shall upon its face show that such amount is drawn for investment for revenue purposes. And thereupon such board of trustees shall determine in what manner it shall be invested; which may be by the purchase of any of the interest-bearing bonds of the United States, or of the state of Indiana, or of any bonds issued by any county, city or township, or other municipal corporation of this state, or any street, sewer or other improvement bonds of any city or town of this state. The president shall thereupon draw moneys from the city treasury, upon such warrant, and invest the same as directed by the said board in the name of "The board of trustees of the firemen's pension fund" of such city. The president shall deposit all securities with the city treasurer, or county treasurer acting as such, who shall collect all interest due thereon and place the same to the credit of such pension fund. The treasurer shall keep a separate account of such fund, and therein fully and accurately set forth a statement of all money received and paid out by him, and he shall, on the first Monday of January and June of each year, make report to the board of trustees of the firemen's pension fund of all moneys received and distributed by him. And the president of the said board shall

execute his bond in such sum as the board may deem adequate, conditioned that he will faithfully discharge the duties of his office, and faithfully account for and pay over to the persons authorized to receive the same, all moneys which may come into his hands by virtue of his office, with sureties to the approval of such board of trustees, which bond shall be filed with the mayor. The board of trustees shall make a full and accurate report of the condition of such pension fund to the city controller of such city on the first Monday of February in each year.

Beneficiaries—Deficiency—Pro Rata Payments.

SEC. 187. If any member of the said fire force shall, while in the performance of his duty, become, or be found, upon examination by a medical officer ordered by the chief of the fire force, to be physically or mentally disabled, so as to render necessary his retirement from all service on the force, such chief shall retire such disabled person, and the board of trustees shall authorize the payment to such person, monthly, from the pension fund, the sum provided in the next section. When any member of such fire force, or retired member on the pension fund thereof, dies, from any cause whatever, and leaves a widow or child or children under sixteen years of age, the board of trustees shall authorize the payment to such widow, while unmarried, and child or children under sixteen years of age, monthly, from the pension fund, the sum or sums provided in the next section; or if any deceased members shall have a dependent mother or father, upon satisfactory proof that such mother or father was dependent upon such deceased member of the fire force, the board of trustees shall authorize the payment to such mother or father, monthly, from the pension fund, the sum provided in the next section: *Provided, however,* That no pension shall be paid to the mother or father of a deceased members who leaves a widow; and if the widow of any deceased members shall remarry, her pension shall cease: *Provided, further,* That if there be no widow and no child or children, and no dependent father or mother, but dependent brothers or sisters, then such pension shall be paid to them. If at any time there should not be sufficient money or bonds to the credit of the said pension fund to pay to each beneficiary the full amount per month to which such beneficiary may be entitled, then and in that event an equal percentage of such monthly payments shall be made to each, until such fund is so replenished as to warrant payment in full to each of such beneficiaries.

Sums to be Paid Retiring Members—Dependents.

SEC. 188. The sums to be paid to permanently disabled members and the widows and orphans, or dependent mothers or fathers,

or brothers or sisters of deceased members, shall be as follows: Upon retirement with such disability during service a member shall receive not less than twenty-five dollars nor more than fifty dollars per month; and in the event of his decease while in such service of the fire force or after such retirement, the widow shall receive not less than twenty nor more than twenty-five dollars per month, and their children under sixteen years of age not less than six dollars each per month, which sum so paid for the benefit of such children shall be paid to the mother, if alive, so long as such children shall reside with and be supported by her. Any member of any such paid fire force who has been in such service twenty-five years, upon making written application to the chief of such fire force, may, at his own option, without medical examination or disability, be retired from all service on such fire force; and, on such retirement, the board of trustees shall authorize the payment to such retired member of a sum not less than twenty dollars per month nor more than forty dollars per month. The pension of the dependents of such retired members shall be the same in case of death after retirement as provided for dependents of those who die in the service, or after retirement with disability, but the member so retired without special disability shall always receive not less than the amount of pension which he received when he retired. The pension of the dependent mother or father or brother or sister of a deceased member who dies in the service of the fire force, or after retirement, whether voluntary or with disability, shall be the same as that provided for the widows of such members. Any member who may be discharged from the fire force after having served not less than twenty years shall receive not less than fifteen dollars nor more than thirty dollars per month: *Provided,* Such discharge is for any cause other than a criminal act; and in the event of the death of such member after retirement, if he leaves a widow or dependents, they shall receive the amount provided for the dependents of those who have died in the service of the fire force. In no case shall the board of trustees depart from the provisions of this section in authorizing the payment of such pensions.

Pensioners Under Former Laws.

SEC. 189. The provisions of this act in relation to firemen's pension fund shall apply to all persons receiving pensions from the firemen's pension fund of any such city who have been placed on such pension roll under any former law or laws, except that widows or children of deceased members of such fire force shall receive the same amount as they were receiving at the time of the passage of this act; and in any application for pension now pending before any such board of trustees, the board herein created may, in its discretion, place such dependents in the class of pensioners as provided in the last two sections.

Re-Examination After Retirement.

SEC. 190. After any member of such fire force shall have been retired upon pension by reason of disability, the board of trustees shall have the right, at any time, to cause such retired member again to be brought before it, and again examined by competent physicians and surgeons, and shall also have the right to examine other witnesses for the purpose of discovering whether such disability yet continues, and whether such retired member should be continued on the pension roll; but he shall remain upon the pension roll until reinstated in the service of the fire department, except in case of dismissal or resignation. Such retired member shall be entitled to notice and to be present at the hearing of any such evidence, shall be permitted to propound any questions pertinent or relevant to such matter, and shall also have the right to introduce evidence on his own behalf. All witnesses so produced shall be examined under oath, and any member of such board of trustees is hereby authorized to administer such oath to such witnesses. The decision of such board shall be final, and no appeal shall be allowed therefrom, nor shall the same be reviewable by any court or other authority.

Payments on Warrant.

SEC. 191. The payment of all pensions shall be made by warrant drawn by the order of the board of trustees, signed by the president and countersigned by the secretary.

Pension Exempt from Seizure.

SEC. 192. No part of such pension fund shall, either before or after any order for the distribution thereof to members of such fire force, or to the widows or guardians of any such child or children, or to the dependent father, mother, brother or sister of any such deceased, disabled or retired member of such force, be held, seized, taken, subjected to, detained, levied on by virtue of any attachment, execution, judgment, writ, interlocutory or other order, decree or process, or proceedings of any nature whatever issued out of or by any court in this or any other state for the payment or satisfaction, in whole or in part, of any debt, damages, claim, demand, judgment, fine, amercement of such member or his widow or children, or of the dependent mother or father, sister or brother of any deceased member; but the said fund shall be sacredly kept, secured, promoted and distributed for the purpose of pensioning the persons named in this act, and for no other purpose whatever: *Provided,* That said board may annually expend such sum as it may deem proper from such fund for the necessary expenses connected therewith.

Custodian of Fund.

SEC. 193. The city treasurer, and in those cities where the county treasurer is, ex-officio, city treasurer, such county treasurer is hereby made the custodian of all the moneys belonging to such firemen's pension fund, and all moneys belonging thereto shall be promptly paid to him. He shall be liable on his bond as such treasurer for the faithful performance of all the duties imposed upon him by the provisions of this act in relation to the firemen's pension fund, and for the faithful accounting for all moneys and securities which may come into his hands belonging thereto, and he shall keep a separate account thereof, which shall at all times show the true condition of such fund.

Existing Funds—Transfer.

SEC. 194. In case there shall be, at the taking effect of this act, any city having a firemen's pension fund governed and managed by a board of trustees created under provisions of any former laws, such fund shall remain under control of such former board until the members of the board of trustees of the firemen's pension fund created under the terms of this act shall have been elected and qualified and the board duly organized, when such former board shall at once turn over to the said board created under this act all the moneys, books, papers and property belonging to such firemen's pension fund, and thereafter such fund and all books, papers and property connected therewith shall be under the sole custody, care and management of the board of trustees created under the provisions of this act, and the terms of office of the members of any such former board shall thereupon at once cease.

E. DEPARTMENT OF ASSESSMENT AND COLLECTION.

City Treasurer—County Seat Exception.

SEC. 195. The city treasurer of every city shall be the head of the department of assessment and collection of taxes for such city: *Provided*, That in any city of the first, second or third class which is the county seat of the county in which such city is located, and which city now has a city treasurer, such office of city treasurer shall on and after the expiration of the term for which he was elected, be abolished and the records, books and papers of such office, except as otherwise herein provided, shall be turned over to and conserved by such other officers of such city as the common council may designate; and thereafter in every city of the first, second or third class which is the county seat of the county in which any such city is located the county treasurer of such county shall be, ex-officio, treasurer of such city, and shall perform all the duties in this act required to be performed by

city treasurers; and whenever, in this act, in relation to cities of the first, second or third classes which are such county seats, the term treasurer, or city treasurer, is used, such designation shall apply to the county treasurer acting as treasurer of any such city: *Provided, further,* That nothing in this act shall be so construed as to affect any law now or hereafter in force in relation to common schools or other town or city schools or to the assessment and collection of taxes therefor, or in relation to school towns, or school cities, except as in this act expressly provided.

Treasurer in County Seat City.

SEC. 196. The treasurer of every county having a city as its county seat, except in cities of the fourth and fifth classes, shall, on and after the expiration of the term of the present incumbent, perform all the duties which by law or the ordinances of such city are required to be performed by the treasurer thereof, except as herein otherwise provided, in the same manner and with like effect as such duties are required to be performed by such city treasurer; he shall, immediately upon succeeding to the discharge of such duties, and before entering upon the same, take an oath honestly to discharge such duties, and execute a bond, payable to the state of Indiana, secured by an approved surety company, or with at least four freehold sureties, to the approval of the common council of such city, in a penalty to be prescribed by such council, not less than one-half the estimated amount of all taxes, including delinquent, to be levied and collected for municipal purposes in such city for the current year, conditioned that he will honestly and faithfully discharge the duties of his office so far as they relate to or affect such city, and safely keep and properly account for and pay over to the proper person or authority all moneys and property of such city which may come into his hands, which bond shall be filed with and preserved by the department of finance, except in cities of the fifth class, in which such bond shall be filed with the city clerk.

Transfer of Funds, Tax Duplicate, Etc.

SEC. 197. The city treasurer of any such city of the first, second or third class which is the county seat of the county in which such city is located, in case there shall then be such city treasurer in such city, shall on the expiration of the term of his office make settlement with the city clerk for all moneys collected and disbursed by him, and thereupon a statement shall be prepared, which shall be signed by him and attested by such clerk, in which shall be shown the amount of moneys in his hands belonging to the general fund and each other fund of which separate account is required to be kept by law or the ordinances

of such city, and the total amount of all such funds. A particular description shall also be given of all bonds and other securities and property in the hands of such treasurer belonging to such city. Such treasurer shall present such statements to the county treasurer, and forthwith pay over to him all the funds of such city in his hands as shown therein, and also deliver to him all the bonds, securities and other property described in such statement; and such county treasurer shall give a receipt therefor, showing the amount of money received on account of each fund, and the total amount received, describing the bonds, securities and other property received, which receipt such city treasurer shall deliver to the city clerk, who shall issue a quietus therefor. Such city treasurer in any such city of the first, second or third class which is such county seat, if any there be, shall also, on the expiration of his term of office, make a settlement with the city clerk on account of the tax duplicate and delinquent list which may then be in his hands for collection. He shall enter upon such duplicate and list, opposite the name of each person from whom he has collected any taxes, a statement of the fact showing the amount collected; and at the end of such duplicate and list the aggregate amount of all taxes of each kind collected by him shall be deducted from the aggregate amount of each kind of tax shown in such duplicate and list, and the remainder of each kind of tax shown in such duplicate and list, and the remainder of each kind of tax uncollected shall be stated, and the same shall be signed by such city treasurer and attested by the clerk. Such tax duplicate and delinquent list shall then be delivered by such city treasurer to the county treasurer, who shall give him a receipt therefor, stating therein the amount of each kind of tax therein remaining uncollected and the aggregate of all such taxes, which receipt shall be filed with the city clerk, who shall issue a quietus therefor. Such county treasurer shall thereupon proceed to collect the taxes contained in such duplicate and list in the same manner as he is required by law to collect taxes for state, county, township, road and other purposes upon the county tax duplicate and delinquent list, and shall make settlement on account thereof with the county auditor at the same time and in the same manner as he is required to make his settlements on account of the county tax duplicate. The city treasurer of any such city of the first, second or third class which is such county seat shall, on the expiration of his term of office, as herein provided, deliver to the treasurer of the county all precepts for the collection of street, sewer, drain and other assessments of like character which may be in his hands unexecuted; and thereafter all such precepts shall issue by such county treasurer, who shall execute the same, and conveyances in execution of sales made by the city treasurer or by such county

treasurer acting as city treasurer, shall be made the same in all respects as such precepts are required to be executed and conveyances made in other cities, for which services the same fees shall be paid and collected as are allowed by law in other sales made by the county treasurer.

License or Special Tax—How Paid.

SEC. 198. Whenever by law, or the ordinances of any city, a license or special tax, or sum of money other than taxes contained upon the tax duplicate, shall be required to be paid by any person into the treasury of such city, such person shall obtain from the department of finance a statement showing the amount to be paid, and on what account, and present the same to the treasurer, whose duty it shall be to receive and collect such amount, and give to the person paying the same a receipt showing the amount paid and on what account, which receipt such person shall deliver to the department of finance, who shall thereupon issue to such person a license or quietus as may be proper. In cities of the fifth class, the duties in this section prescribed to be performed by the department of finance shall be performed by the city clerk.

Taxation—Assessment and Appraisement.

SEC. 199. The assessment and appraisement for taxation for state and county purposes of all real and personal property and polls, subject to taxation within every city of this state, as made pursuant to the provisions of the acts of the general assembly of the State of Indiana, now or hereafter in force for the assessment of state and county taxes, as the same shall have been equalized by the county board of review and the state board of tax commissioners, including all additions made thereto by such boards, or either of them, and all assessments and appraisements of omitted property made by the auditor, treasurer or assessor of the county in which such city is situated, shall be the basis upon which the common council of such city shall levy and assess the taxes for city purposes, which they respectively shall deem it necessary to levy, within the limitation hereinafter prescribed, and the taxes so levied shall become and continue liens upon the property upon which they are levied at the time, in the manner and to the extent, that taxes levied for state, county and other purposes become and continue liens upon such property by virtue of the provisions of the laws of taxation of this state.

Assessment Certificate—Levy, Etc.

SEC 200. It shall be the duty of the auditor of the county in which any city is situated, in each year, to make out and deliver to the city clerk, in cities of the fifth class, and to the department

of finance in cities of every other class, a certificate under the seal of the board of commissioners of such county, showing the aggregate assessment and valuation for taxation for the year in which such certificate is made, of all taxables, real and personal, including railroad property in such city, and the number of taxable polls therein, as the same shall have been returned by the assessor of the township in which such city, or any part thereof, is situated, and as equalized by the county board of review and the state board of tax commissioners, and added to by assessment of omitted property; which certificate shall be so made and delivered by such auditor immediately after the assessment and valuation of such property and polls has been completed and returned to his office. Such department of finance, or city clerk, as the case may be, shall lay such certificate before the common council of such city at its next regular session held after such certificate is received; and thereupon such common council shall proceed, in the manner hereinbefore prescribed, to levy such tax upon the property and polls shown in such certificate as may be deemed necessary by such council to supply the needs of such city during the ensuing year for city purposes for which taxes may be properly levied: *Provided, however,* That except as otherwise expressly provided in this act, it shall be unlawful for the common council to levy a tax or taxes for any one year exceeding in the aggregate, in cities of the first class, ninety cents, and, in all other cities, one dollar and twenty-five cents, upon the hundred dollars of the assessed and appraised value of the property subject to taxation in such city for the year in which the levy is made, as shown by the assessment returned to and on file in the office of the county auditor, and by his certificate herein mentioned: *Provided, further,* That in any city against which a judgment has been entered, or which at the date of the passage of this act, has an outstanding indebtedness, evidenced by the bonds of such city, such additional levy may be made as the common council may find necessary for the gradual payment of such judgment or bonds; but the funds derived from such debt levy shall be used for no purposes whatever other than that for which the levy shall have been made.

Tax Duplicate.

SEC. 201. The levies of taxes made as provided in the last section shall be certified by the department of finance, or city clerk, as aforesaid, under seal, without delay, to the county auditor, and such auditor shall thereupon proceed to estimate, as he is now required to do in reference to state, county, township, road and other taxes, the amount of tax chargeable according to the rate prescribed by such levies, to each person who is listed for any taxable property or poll in such city upon the assessment and

appraisement of property, and polls therein made for the year in which tax is levied and returned by the assessor of the township in which such city is located, and equalized by the county board of review and state board of tax commissioners and added to by assessment of omitted property. He shall enter the amount of tax, including delinquent tax, chargeable to each person against the name of such person, as it appears upon the tax duplicate of the county for such city for the current year, in proper columns, where the current and delinquent state, county, township, road and other taxes with which such person is charged are entered. The aggregate of all taxes with which such person is chargeable, including state, county, township, road, city or other taxes, shall be carried and set down opposite the name of such person in a column of totals; and in the recapitulation of the duplicate now required by law to be made by the auditor, he shall set down the aggregate of all taxes contained in the duplicate for such city, and such duplicate shall thereupon be delivered to the treasurer of the county as now provided by law.

Tax Notice by County Treasurer—Collections—Delinquents.

SEC. 202. Every county treasurer shall include in the notice now required by law to be given by him of the receipt of the tax duplicate for collection a statement of the amount of taxes charged in such city, for city purposes, upon each one hundred dollars valuation of the taxable property, and also for such purposes upon each taxable poll, and such notice shall be the only notice required to be given of such facts. It shall be the duty of such county treasurer to receive and collect all taxes shown upon the duplicate of such city for city purposes, the same as he is required by law to receive and collect the taxes shown thereon for state, county, township, road and other purposes. If one-half of the amount of such city taxes for the current year charged to any person, and the entire amount of delinquent city taxes, penalty, interest and costs charged to such person and unpaid, be paid on or before the first Monday in May, the payment of the other half of such taxes for the current year may be postponed to the first Monday in November following; but if on or before the first Monday in May payment be not made of that part of the above specified amount, the entire amount of unpaid city taxes charged upon the duplicate to such person shall become due and be returned delinquent and collected as such, with like penalty, interest and costs as is provided where the first installment of state, county, township and road taxes is not paid by the time prescribed. If such taxes remain delinquent after the first Monday in November following, there shall be an additional penalty of six per centum added to all such taxes that become delinquent at the preceding May and

November settlements; but a penalty of ten per centum only shall be added to the current delinquency occurring on the first Monday in November. After payment by any person of taxes charged to him, the treasurer shall give to such person a receipt in the form prescribed by law, which shall include all amounts paid by him, for city as well as other taxes. Any partial payment, in money, of either current or delinquent taxes shall be pro rated among the different taxes charged to the person paying in proportion to the amount of such taxes respectively. If either installment, or any part thereof, of such taxes for such city purposes remain unpaid after expiration of the time limited for payment thereof, the county treasurer shall have the same power and be under a like duty to collect the entire amount of such taxes remaining unpaid, by levy and sale of personal property and by suit, as is granted to and imposed upon him for the collection of delinquent state, county, township, road and other taxes: *Provided,* That in any city in which, under any law now in force, the first installment of taxes for the year 1905 is payable on or before the first Monday in December in said year the common council of such city, at the time of making the tax levy in said year, shall have authority to levy an additional assessment of sixty-two and one-half cents on the hundred dollars valuation of the property in such city subject to taxation, together with one dollar on each poll, which additional assessment shall be payable on or before the first Monday of November, 1905.

Treasurer's Settlement—Delinquent List.

SEC. 203. The county treasurer, acting as city treasurer, shall at the time of making his annual settlement with the county auditor, on the first Monday in May, as now required by law, make settlement with such auditor for the amount with which such treasurer is to stand charged on account of city taxes, in the manner prescribed for his settlement of state, county, township, road and other taxes, and for all of such city taxes appearing upon the tax duplicate, and not shown upon such settlement to be uncollected, such treasurer shall be held liable as having been collected and received by him. Immediately upon such settlement being made, the auditor shall make out a statement in duplicate, showing the aggregate amount of all current and delinquent taxes, for city purposes, including with the delinquent taxes the penalties and interest thereon which appear upon the tax duplicate of such city, the amount of such taxes, penalty and interest that remains uncollected at the time of such settlement, and the amount of each class, including penalty and interest, that has been collected by such treasurer and appears upon the duplicate of such city. Such settlement shall be signed and sworn to by such treasurer, and certi-

fied by the county auditor, under the seal of the board of commissioners, to be correct abstracts of the treasurer's settlement, on account of such city taxes. One copy of such statement shall be delivered by the county auditor to the department of finance of such city, or to the city clerk, as the case may be, who shall thereupon charge the amount shown thereby to have been collected to such county treasurer as cash in his hands.

County Auditor—Delinquent List.

SEC. 204. The county auditor shall include in the delinquent list required by law to be made by him after the annual settlement with the county treasurer on the first Monday of May the amount of all city taxes shown by such settlement to be uncollected in any city, and carry the same out and include it in the total of all taxes due from the person liable therefor as shown in such list; and such list, when delivered to the county treasurer, shall empower him, and it shall be his duty, to collect all delinquent city taxes embraced therein, in the same manner, and with the same penalty and interest, as the state, county, township, road and other taxes contained therein.

Delinquent Settlement.

SEC. 205. On the first Monday of November in each year the county treasurer shall make settlement with the county auditor for the amount of delinquent city taxes, penalty and interest shown upon such delinquent list in the same manner as he is now required by law to make in such settlement for delinquent state, county, township, road and other taxes collected by him, and upon such settlement a statement signed, sworn, and certified to by such treasurer and auditor, in the same manner prescribed in section two hundred and four of this act, shall be prepared in duplicate, showing the aggregate amount of city delinquent taxes, penalty and interest contained in such delinquent list, the amount thereof collected and the amount still remaining uncollected, a copy of which statement shall be transmitted to the department of finance, or city clerk, as required with reference to the statement mentioned in said section two hundred and four.

Delinquent Sales.

SEC. 206. The county auditor, in making out the list of lands and lots in any such city returned and remaining delinquent for state, county, township, road and other taxes which he is required by law to make between the first Monday in November and the first day of January in each year, shall enter therein against the name of each person remaining delinquent on account of state, county, township, road and other taxes, the amount of all de-

linquent taxes for city purposes for which such lands and lots are liable, including taxes on polls and personalty, and adding interest and penalty thereon, as in case of other delinquent taxes, and also the amount of all taxes for city purposes assessed for the current year, for which such lands or lots are liable, including taxes on polls and personalty, which said taxes shall be carried out with the taxes for state, county, township, road and other purposes, into one total. Payment for such delinquent and current city taxes, with interest, penalty and costs, shall be enforced by sale of the lands and lots liable therefor, or so much thereof as may be necessary, which sale shall be made by the county treasurer in the same manner, at the same time and place, and upon the same notice as is prescribed by law for the sale of lands and lots for the payment of delinquent state, county, township, road and other taxes, the property to be offered for sale and sold for the payment of all taxes of every kind for which the same is liable, with interest, penalty and costs thereon, as one entire sum, and not separately for such city taxes. Nor shall notice of the sale be given separately for city taxes, but it shall be stated in the notice required to be given of the sale of the lands and lots for state, county, township, road and other taxes that the sale thereof will also be for the payment of the city taxes, which shall be the only notice required to be given. Payment of the bid upon the sale of any such lands and lots shall be enforced, so far as it relates to city taxes, by the same officer and in the same manner, and with the same penalty and costs, as is provided by law for the enforcement of the payment of a bid made upon the sale of lands and lots for state, county, township, road and other taxes alone. The guaranty required by law to be indorsed by the county treasurer upon each certificate given by him upon a purchase of lands and lots for state, county, township, road and other taxes, shall in every case where such sale is made for city taxes, also apply to and embrace the amount of city taxes for which sale was made; and the holder of such certificate shall have the same remedy upon such guaranty as to the city taxes embraced therein that he has as to state, county, township, road and other taxes to which the same relates. All provisions of law in reference to the certificate to be issued to a purchaser of lands and lots upon sale for state, county, township, road and other taxes; the effect of such sale and the rights of the purchaser; redemption therefrom; the making of deeds upon failure of redemption, and as to the force and effect of such deeds; for the quieting of titles acquired thereunder; for transferring to the purchaser the original lien for the taxes for which the sale was made, and subsequent taxes paid; and for the enforcement of such lien by judicial proceedings, when the purchaser

fails to acquire a valid title by virtue of the purchase; and as to the interest and penalties to be collected upon redemption from such sale before deed is made, or upon judicial proceedings to quiet the title or enforce the lien of the purchaser; and all other provisions of law relating to levying, assessing, collecting and accounting for state, county, township, road and other taxes, shall so far as the same are applicable, have like force and effect in case of city taxes.

Compensation of Auditor and Treasurer.

SEC. 207. The county auditor for all services required to be performed by him under this act, for a city of the first, second or third class, which is the county seat of the county of which he is auditor, shall receive an annual salary, in cities of the first class, of one thousand dollars; in cities of the second class, of five hundred dollars, and in cities of the third class, of four hundred dollars; to be paid quarterly out of the funds of the city, upon allowance by the common council thereof. The county treasurer, for all services required to be performed by him under this act for such city, shall receive an annual salary not exceeding, in cities of the first class, eight thousand five hundred dollars, in cities of the second class, fifteen hundred dollars, and in cities of the third class, one thousand dollars; to be fixed by ordinance and to be paid quarterly out of the funds of the city upon allowance by the common council thereof; and in addition to such salary, such treasurer shall receive five per centum of the amount of delinquent taxes collected by him for such city, such per centum to be calculated on the original amount of the tax so collected as charged on the duplicate, and not including interest or penalty. And neither such auditor nor such treasurer shall receive any other compensation than in this section provided for any or all services in relation to the levy, assessment, collection or disbursement of any of the funds of such city, whether derived from taxes, current or delinquent, or from special assessments, licenses, or other source. For their services under this act, in cities other than cities of the first, second, and third classes, which are county seats, county auditors and county treasurers shall receive no compensation other than that allowed them by law as such county officers. And any county auditor, or county treasurer, or deputy of either of such officers, who shall directly or indirectly, ask or receive any compensation or allowance from any city other than as expressly provided for in this section, shall, on conviction, be fined not exceeding five thousand dollars, to which may be added imprisonment in the state prison not exceeding one year.

Treasurer's Accounts with Cities.

SEC. 208. The treasurer of every county in the state shall keep an account of all moneys received by him for each city in such county, for taxes, current or delinquent, assessments, license fees, and from all other sources whatever; and on the first day of each month he shall receipt to the controller of such city, in cities in which such office of controller has been created, and to the city clerk in all other cities, for the amounts collected by him as aforesaid for the preceding month, itemizing the moneys so by him collected, which amounts so receipted for shall at once be available for such city's use. In cities of the fourth and fifth classes, and in all other cities which are not county seats, such county treasurer shall pay over such amounts to the city treasurers of such cities respectively; and in cities of the first, second and third classes which are county seats he shall pay such amounts on the warrants drawn on the city treasurer by the city controller of each of such cities respectively, and as otherwise provided in this act. Whenever any county treasurer, or other county or township officer, shall fail to discharge faithfully, fully and promptly any duty imposed upon him by this act, or by any other law relating to his duties in connection with cities or towns, he shall be liable to impeachment and removal from office and to damages for such failure, for which damages his bondsmen also shall be liable. Such impeachment may be instituted by any such city or town by filing a complaint in the circuit court of the county in which such city or town is located. Such causes shall be tried as other civil causes are tried, and a removal from office may be decreed and damages awarded. The bondsmen of any such officer may be made co-defendants in the action, in case such city or town seeks to recover damages.

City Treasurer—Receipts—Disbursements.

SEC. 209. The city treasurer shall receive all moneys, notes, bonds and orders belonging to the city, and keep an accurate account of such moneys, notes, bonds and orders, and of the amounts received and paid out by him; and no money shall be paid out of the city treasury by him except upon warrant duly drawn thereon.

Duties of Treasurer, Controller or Clerk.

SEC. 210. All moneys due to or to be collected for any city, on any account whatever, shall be paid to the city treasurer, who shall, for every sum received by him, issue a receipt to the person paying the same; which receipt, except for taxes charged on the duplicate, such person shall file with the city controller, save in cities of the fifth class, in which case such receipt shall be filed with the city clerk, and thereupon such controller, or clerk, shall

issue a quietus to such person, and charge the treasurer with the amount therein specified, and upon what account. The treasurer shall receive city orders that are due in payment of any debt, tax or assessment due such city; and when an order is received by him for any debt, tax or assessment due such city, or otherwise paid or redeemed, he shall cancel the same by writing or stamping upon the face of such order the word "redeemed" and the date of redemption; and such order shall not again be put in circulation. The treasurer shall also, in like manner, cancel all bonds or other evidences of indebtedness redeemed or liquidated by him. He shall register all orders by him so redeemed in a book to be furnished him for that purpose, in the same manner as the city clerk or controller is required to register such orders. He shall also register all receipts given by him as required in this act, except receipts for taxes charged on the tax duplicate.

Payment of City Orders—Deficiency—Interest.

SEC. 211. The city treasurer shall pay all orders issued by the city, of which he is such treasurer, when presented, properly indorsed, if there be money in the treasury appropriated for that purpose sufficient to pay the same; if there be not money enough thus to pay such orders he shall write or stamp on the back thereof, over his name, the date of such presentation, and note the same in a register of orders indorsed, to be provided him for that purpose, and such orders shall be entitled thenceforth to draw interest at the rate of six per cent. per annum, until there shall be money on hand sufficient to pay the same. Whenever there shall be money on hand to pay all outstanding orders which have been indorsed prior to any given date, the treasurer shall publish notice of such fact by two insertions in some newspaper of general circulation in such city, stating also in such notice that such outstanding orders will be redeemed on presentation; and interest shall cease on such orders from and after the last date of such publication: *Provided,* That city orders shall be received in payment of taxes for general purposes, and for all claims and demands due or belonging to the general fund of the city, without regard to priority of presentation or date of issue, but the treasurer shall not pay any balance thereon, over and above the amount of such tax, claim or demand, when there are outstanding orders unpaid for want of funds.

Treasurer's Statement to Controller or Clerk—Reports.

SEC. 212. The city treasurer of every city shall, on the first day of each month, furnish the city controller, in cities of the first, second, third and fourth classes, and the city clerk, in cities of the fifth class, a statement of all the receipts and disburse-

ments made by him during the previous month, and the balance in the treasury belonging to each fund, general and special, and also deliver to him all the orders redeemed and canceled by him during the same period, taking the controller's or clerk's receipt therefor; which statement, with the orders redeemed, the controller, or clerk, as the case may be, shall lay before the common council at its next meeting, to be disposed of as the council may direct. The city treasurer shall, also, at least fifteen days before the general city election, and at all other times when so required by the common council, render a full account of the receipts and expenditures for the current year, and the general condition of the treasury. He shall also, at his own peril, keep safe the moneys of the city.

F. DEPARTMENT OF HEALTH AND CHARITIES.

Health and Charities—Terms—Salary, Etc.

SEC. 213. In every city of this state there shall be a department of health and charities to be under the control of a board of three commissioners, not more than two of whom shall be of the same political party, who shall be known as the "Board of Health" and who shall be appointed by the mayor, and who shall serve until their successors are appointed and qualified. Such commissioners, except the secretary, shall each receive a salary to be fixed by ordinance, not exceeding one hundred dollars per year. Such board shall have power to purchase all necessary supplies and apparatus, and make all necessary repairs in the department, subject to the same provisions as are prescribed in this act for the exercise of similar powers by the department of public works. The board shall have charge of all matters relating to the public health and the enforcement of laws in relation thereto, including the charge of the city hospital, and city dispensary, if any there be, and all other city charities; and shall keep a careful record of all its proceedings. Such commissioners shall appoint a superintendent of the city hospital and also a superintendent of the city dispensary, who shall have control and management of each thereof, if there be such city hospital or dispensary in such city. Such commissioners shall appoint as secretary one of their number, who shall be a physician of good standing, and well informed in sanitary science, and whose salary shall be fixed by ordinance: *Provided,* That in cities of the first class such board shall appoint a competent person not a member of such board who shall be a doctor of medicine and well informed in sanitary science, and who shall be the city sanitarian and by virtue of his office secretary of such board, and whose salary shall be two thousand dollars, which may be increased by ordinance to any sum not exceeding

three thousand dollars per annum; in cities of the second class the secretary of such board shall receive not over one thousand dollars per annum, in cities of the third and fourth classes, not over five hundred dollars per annum, and, in cities of the fifth class, not over one hundred dollars per annum to be fixed in each case by ordinance. In every city of the first class such secretary of the board of health shall not engage in any other business, occupation or profession. He shall at all times be under the direction and control of such commissioners in the performance of his duties. Such secretary shall be the executive officer of the board, and attend to the proper registration of births, marriages and deaths and such other statistical information as such department of public health and charities may require. He shall have the immediate control and direction of the sanitary police force, and in connection therewith shall make all necessary sanitary surveys and inspections. He shall also make and superintend, in relation to the sanitary condition of the city, such chemical, histological, pathological and other investigations as shall be deemed advisable by the board; he shall have charge of the office occupied by the commissioners, and carry out and perform all such orders and directions as the board may require, keep all the records of the board, and render to the department a full report of all matters pertaining to his office, monthly, and also an annual report in like manner at the close of each calendar year.

Powers and Duties.

SEC. 214. Such board of health is hereby authorized and directed to prepare ordinances for the protection of public health; for securing the proper registration of births, marriages and deaths, and such other statistical information as the department may require, with penalties for their violation; for the removal and burial of the dead; for the maintenance, if deemed necessary, of an ambulance service for the speedy removal of sick and needy persons; for the efficient regulation and management of the city hospital and city dispensary, as may seem desirable, in case there be in any such city such city hospital or dispensary; for the destruction or fumigation of infected property or premises; for the registration of plumbers and the inspection of plumbing and house drainage in all buildings, both public and private, erected after the passage of this act, and in all buildings both public and private, erected prior thereto, wherein changes in or additions to the plumbing or drainage are to be made; for the appointment of an inspector of plumbing and house drainage, who shall be a practical plumber and shall be required to pass an examination as to his qualifications by three practical plumbers doing business and residing in such city, such examiners to be selected by the

board of health; and such other ordinances as shall make the department effective in the prevention and suppression of disease. Such ordinances shall be submitted to the council for passage as other ordinances. Such commissioners shall nominate for appointment by the department of public safety, or, in cities of the fifth class, by the city marshal, as special sanitary officers, skilled and competent persons for live stock and meat inspectors and food inspectors, whose duty it shall be to inspect all live stock, meat, and food offered for sale for human consumption in such city, and to attend the public markets and watch carefully over the same and prevent the selling or offering for sale for human food of any and all articles unfit for use; and the department is hereby authorized to require from the department of public safety, or the city marshal, as the case may be, special details of policemen or firemen to execute orders for the department of public health whenever needed. The department of public safety, or city marshal, shall detail policemen who shall be constantly subject to the orders of the department of health. In case of disagreement between the two departments as to the number or duration of service of such details of policemen, or the number of sanitary officers required, the mayor shall decide the question.

JUDICIAL.

City Court—Officers—Seal.

SEC. 215. The judicial power of every city of the first, second, third and fourth classes, shall be vested in a city court. The officers thereof shall be a judge, a clerk and a bailiff, except that, in cities of the third and fourth classes, the judge of such court shall act also as clerk and shall perform all duties, so far as applicable, hereinafter prescribed for the clerk of such court. The bailiff shall be a policeman detailed for such service by the chief of police under direction of the board of safety. The style of such court shall be: "The City Court of the City of ————————," according to the name of such city. Such court shall be a court of record, and all its judgments, decrees, orders and proceedings, shall have the same force and effect as those of the circuit court, except that no judgment shall be a lien on real estate otherwise than as provided by taking a transcript of such judgment and filing the same in the office of the clerk of the circuit court; and such judgment shall then be enforced in the same manner as in case of liens by transcript from justices of the peace in similar cases: *Provided*, That in cities of the fifth class the mayor shall exercise all the powers and be required to perform all the duties herein provided for city judges, in so far as the same are applicable. The city judge shall provide at the expense of the city a seal for such court,

which shall contain on the face the words: "City Court of ———, Indiana," the blank to be filled with the name of the city. A description of such seal, together with an impress thereof, shall be spread on the records of such court. He shall also provide all books, dockets, papers and printed blanks necessary for the discharge of the duties of such court. No change of venue shall be taken from such court, but any defendant may take a change of venue from the judge thereof and a special judge may be appointed, as provided by law in relation to the circuit court.

City Judge—Election, Term, Etc.—Jurisdiction.

SEC. 216. The city judge shall be elected by the legal voters of such city, at the same time and in the same manner as the other city officers are elected, for the term of four years and until his successor is elected and qualified. His term of office shall begin at twelve o'clock, noon, on the first Monday of January following his election; except that any city judge elected at the election to be held in November, 1905, shall, as in the case of other officers then elected, hold only from the expiration of the term of his predecessor and until the first Monday in January, 1910. Before entering upon the discharge of his duties he shall execute a bond, payable to such city in the penal sum of five thousand dollars, with good and sufficient surety, to be approved by the mayor and filed in the office of the city controller, conditioned for the faithful discharge of the duties of his office. He shall hold daily sessions of the city court, Sundays excepted, at a place to be provided and designated by the common council. He shall have and exercise within the county in which such city is located the powers and jurisdiction now or hereafter conferred upon justices of the peace in all cases of crimes and misdemeanors, except as otherwise herein provided. He shall have exclusive jurisdiction of all violations of the ordinances of such city. He shall also have original concurrent jurisdiction with the circuit court or criminal court in all cases of petit larceny and all other violations of the laws of the state where the penalty provided therefor can not exceed a fine of five hundred dollars and imprisonment in the jail or workhouse not exceeding six months, or either or both: *Provided*, That such city judge, in any case brought before him charging any person with a crime or misdemeanor, if, in the opinion of such judge, the punishment which he is authorized to assess is not adequate to the offense, may so find, and in such case he shall hold such prisoner to bail for his appearance before the proper court, or commit him to jail in default of such bail.

Powers of City Judge.

SEC. 217. In the trial of any person in any city court for the violation of any law of this state or ordinance of such city, the court or jury shall have power to assess a fine in any sum not exceeding five hundred dollars, or adjudge imprisonment as a part of the sentence for any time not exceeding six months in the county jail, workhouse or other lawfully designated place of confinement, or both. Such judge shall have full power and authority to make and adopt rules and regulations for conducting the business of such court not repugnant to the laws of this state, and shall have all powers incident to a court of record in relation to the attendance of witnesses, the punishment of contempts, the enforcement of its orders and the issuing of commissions for taking depositions in cases pending in such court. He shall have full authority to administer oaths and to give all necessary certificates for the authentication of the records and proceedings of such court. In the matter of changes of venue and other matters relating to the trial of any person charged with the violation of any law of this state or of any ordinance of such city, such court shall be governed, so far as may be, by the law, rules, practice and pleading in criminal and circuit courts, except where herein otherwise provided. Appeals may be taken from the judgment of such court to the circuit or criminal court of the county, in the same manner as provided by law for appeals from justices of the peace. In case of the temporary absence or inability of the regular city judge to act, he shall appoint any reputable practicing attorney to preside in his absence, and such special judge shall have and possess all the powers and rights, and perform and exercise all the duties of judge of such court as fully and completely as the regular judge appointing him, and while so serving shall receive the compensation allowed special judges in the circuit court, to be paid out of the city treasury on the certificate of the regular judge and the warrant of the city controller. It shall be the duty of such judge, whether regular or special, to tax, for the use and benefit of such city, a docket fee of five dollars in each case where a defendant is adjudged guilty of a violation of any law of this state or ordinance of such city, which docket fee shall be collected in the same manner as other costs are collected; and no other fees whatever, except witness fees, shall be taxed against a defendant, unless as otherwise expressly stated in this act: *Provided, however,* That nothing herein shall prevent the taxing and collection of the penalties and fees now fixed by law in case of the collection of judgments on execution, levy and sale of personal property. Such penalties and fees, including such docket fee, when collected, shall be for the use and benefit of such city: *And provided, further,* That any money collected by any city judge where the judgment includes

fine and costs, shall be applied, pro rata, on such fine and costs. Any person having been adjudged guilty of a violation of an ordinance of such city, and committed therefor, may be discharged by such court or judge after such defendant has been imprisoned, in addition to the term of imprisonment, if any, adjudged against him as a part of the sentence, one day for every dollar of such fine and costs, if it appear to such court or judge that such defendant is unable to pay or replevy such fine and costs, but an execution may issue against the property of the defendant, as in the case of other judgments. In no case, however, shall the city be liable to any person for costs or fees. In case a jury is called, the number of such jurors shall be six.

Vacancy in Judgeship—Appointment.

SEC. 218. In the case of a vacancy in the office of city judge, the mayor shall appoint a successor, who shall hold such office during the unexpired term.

Fees Forbidden.

SEC. 219. The city judge, clerk of the city court, and the bailiff thereof shall not receive any fees or compensation whatever other than their respective salaries.

Salary of Judge.

SEC. 220. The salary of the city judge, in cities of the first class, shall be twenty-five hundred dollars per annum; in cities of the second class, eighteen hundred dollars per annum; in cities of the third class, fifteen hundred dollars per annum; and, in cities of the fourth class, twelve hundred dollars per annum, payable quarterly, as the salaries of other city officers are paid.

Clerk of City Court—Duties.

SEC. 221. In cities of the first and second classes, the city clerk shall be clerk of the city court, and shall give bond as in this act hereinbefore provided. Such clerk shall have power to administer oaths; he shall issue all process of such court, affix the seal of the court thereto, and attest the same. He shall keep a complete record and docket of all cases, showing what persons were arrested and brought before the court, how the cases were disposed of, and giving an account of the fees, fines, penalties, forfeitures, judgments, executions, decrees and orders had therein, in the same manner, as nearly as may be, as such records are kept by the clerk of the circuit court. He shall collect all such fees, fines, penalties and forfeitures, and all judgments and executions and all moneys whatever accruing to or to be paid in for the use of such city from the enforcement of any of the ordinances thereof.

At the close of each week he shall make out and deliver to the city judge a written report of all cases in which he has received or collected any moneys during such week, and shall forthwith pay over all such moneys to such judge, and take his receipt therefor.

Bailiff—Bond—Duties.

SEC. 222. The bailiff of such city court shall be a police officer of such city, designated and assigned to such court by the chief of police, under direction of the board of public safety. He shall give bond, payable to such city, in the penal sum of one thousand dollars, with surety to be approved by the mayor, conditioned on the faithful and honest discharge of his duties, which bond shall be filed in the office of the controller. It shall be his duty to be present at the sessions of such court, maintain order therein, and perform all other duties, subject to the order of the court. He shall have and exercise the powers and duties of a constable, as now prescribed by law, except as herein otherwise provided. He shall take charge of all executions issued by the city court, and shall see to the collection of the same. He shall keep, in books to be furnished him by the controller, an accurate account and docket of all executions which may come into his hands, showing the names of the defendants, date and number of the execution, amount of fines, fees or penalties imposed, and the disposition of such execution. He shall make out and deliver a written report to the clerk of the city court, or to the judge acting as clerk, on Tuesday of each week, showing all moneys collected by him during the previous week, giving the names of the defendants, number of executions, amount of fines, fees or penalties collected, and forthwith pay such moneys to such clerk, or judge acting as such, taking his receipt therefor. The salary of the bailiff of the police court shall be fixed by the board of public safety as salaries of other police officers are fixed.

Prosecutions—By Whom.

SEC. 223. The prosecuting attorney of the judicial circuit in which such city is located shall prosecute all cases in such court for violations of the laws of this state and shall be entitled to receive the same fees therefor as are now provided in case of such prosecutions before justices of the peace; and the city attorney shall prosecute all cases of violations of the ordinances of such city.

Witness Fees.

SEC. 224. Witness fees in all cases in such city court shall be taxed and collectible only when claimed by the witness at the time of the trial. No witness shall be allowed more than one fee

for any one day's attendance, nor shall any witness fee be taxed in any case in favor of any member of the police force of such city. Witness fees when collected and received by the city judge for any witness shall be paid by him to such witness upon his demand and his receipting upon the proper docket for such fee.

Process—By Whom Served—Arrests.

SEC. 225. All warrants or other process issued by the city court shall be directed to the chief of police of such city, and shall be executed, served and returned by such chief or by any policeman of such city. It shall be the duty of the members of the police force of such city to cause all persons arrested by them for a violation of any ordinance of such city, or any law of the state, to be taken before such city court for trial or examination, as the case may be.

Averments in Suit—Service on Corporations.

SEC. 226. Whenever any suit shall be instituted by any city it shall not be necessary to aver its corporate organization or the publication of its by-laws or ordinances unless the same be denied by affidavit. In all prosecutions against any railroad or other incorporated company for the violation of any ordinance of the common council of such city, a summons may issue against the company and may be served on the president, superintendent, secretary, treasurer, station agent, ticket agent, conductor or general agent; and, on the trial of the cause, judgment may be rendered against the railroad or other incorporated company for such penalty as may be adjudged; or the conductors or other agents of the company guilty of the violation may be arrested by warrant, and may be proceeded against personally as in other cases.

Actions for Penalty in Name of City.

SEC. 227. All actions brought to recover any penalty or forfeiture incurred under this act or ordinances made in pursuance thereof, shall be brought in the corporate name of such city, the process in every such action shall be a warrant, and the person named in such warrant shall be arrested and retained in custody or under reasonable recognizance until the next sitting of the city court; and it shall not be necessary to file with the affidavit or complaint a copy of the ordinance, or section thereof charged to have been violated, but it shall be sufficient to recite in the affidavit or complaint the number of the section of the ordinance charged to have been violated, with the date of the adoption of such ordinance; nor shall it be necessary to copy any part of the affidavit or complaint or other pleadings in the record of the cause: *Provided,* That the city judge shall note upon his docket the

parties to the action, the title of the cause, the filing of the complaint or affidavit, the issuing and return of process, the judgment and proceedings had in the cause, and the satisfaction of the judgment when paid. If a judgment for penalty or forfeiture is not paid or replevied, the defendant may be committed, for any period not exceeding thirty days, to the workhouse of such city, or if such city has no workhouse, then to the county prison of the county in which such city is situated, and it shall be the duty of the person having charge of such prison or workhouse to receive such defendant and obey the judge or city court in reference to such prisoner; and in default of payment or replevy of such judgment and costs the defendant, unless a woman, may be adjudged and required to pay the same by manual labor in the workhouse or county prison, or on the street or other public works of such city, for which labor such defendant shall be allowed on such judgment and costs one dollar per day. It shall be the duty of the department of public works, or such officer as such department may direct, to cause such defendant to labor not less than six nor more than ten hours per day, according to the season, and each evening to return him to the custody of the keeper of such workhouse or prison. Upon the full payment, as aforesaid, of the judgment and costs, such defendant shall be discharged. And such department of public works is hereby authorized and required to perform all the duties herein prescribed and to use all proper means thereto; and the common council is hereby vested with full authority to pass by-laws and ordinances for the purpose of compelling the enforcement of such manual labor by such defendant, by the use of sufficient force and means as they may deem right and proper. If any prisoner is confined in the county jail for the violation of a city ordinance, or is required to work upon the streets of the city as a part of his punishment, then such city shall pay to the county the fees now allowed to sheriffs for boarding prisoners, while such prisoner is confined in the county prison or jail, and such defendant may at any time replevy and pay such judgment and costs; and in case he has performed labor under such judgment, he shall be entitled to a credit for the amount of the labor performed, and the remainder may be paid or replevied, as aforesaid. In cities of the fifth class, the duties in this section assigned to the board of public works shall be performed by the city marshal or other proper officer designated by the common council.

ANNULMENT OF CITY CHARTER.

City Charter—Procedure to Annul.

SEC. 228. Whenever two-thirds in number of the resident tax-payers over twenty-one years of age in any city shall file in the office of the clerk of the circuit court of the county in which such city is located a petition, asking that the city government of such city be annulled and set aside, and that such city be thereafter organized and governed as an incorporated town, such petition shall be docketed by such clerk as a cause pending in such court, and summons shall issue against such city in its corporate name and be made returnable as in civil actions. Such action shall be tried by the court without a jury; and the only question to be determined shall be the genuineness of the signatures to the petition and whether two-thirds of the resident tax-payers of the city have signed the petition. Any tax-payer having signed such petition may withdraw his signature thereto at any time before the return day of the summons issued against the city as aforesaid. If the court finds that two-thirds of the tax-payers of such city, after withdrawals, if any, remain as petitioners in such action, a decree shall be entered annulling and setting aside such city government and ordering that thenceforward such city shall be organized and governed as an incorporated town. Thereupon the mayor and the members of the common council of such city shall organize as a board of trustees of such town, with the mayor as president of the board, and the remaining officers of such city shall thereafter exercise only the functions authorized to be exercised by the corresponding officers of such town. Such additional officers and boards of the city as exercise no functions under a town government, as provided for in this act, shall at once each file a final report and turn over all books, papers and other property in their custody to the said board of trustees, and on the approval of such reports by such board all such offices shall at once become vacant. Such provisional government of such town shall be conducted until the next regular election of a board of trustees and other town officers, as provided for in this act. Nothing contained in this section shall be construed as affecting any vested right or contract made by such city before the rendition of the decree of the court aforesaid; but all such vested rights or contracts shall have the same force and effect for or against such town as if such decree had never been rendered, and the remedies therefor shall continue and be enforceable in favor of or against such town in its corporate capacity.

III. CITIES AND TOWNS.

ELECTIONS.

Eligible to Office.

SEC. 229. No property qualifications shall be necessary to render any citizen eligible to hold any office of any municipal corporation in this state.

Eligible to Vote.

SEC. 230. In all municipal elections, no other qualifications shall be required of any voter than such as are made necessary in general elections under the constitution and laws of the state.

Voting Precincts.

SEC. 231. In city and town elections, except as provided in sections ten, eleven and twelve for the first town election, the voting precincts shall, so far as practicable, be those established by the county commissioners, and the elections shall be conducted under the laws in force for general elections.

PRISON OR WORKHOUSE.

Prison or Workhouse.

SEC. 232. Any town or city shall have power to erect a prison or workhouse within the corporate limits; and it shall be lawful to imprison therein persons convicted of offenses against the ordinances of such municipality or the laws of the state; and also to imprison therein persons charged with offenses punishable by indictment or on affidavit, temporarily, until they can be conveniently removed to the county jail. So far as the same shall be applicable, the law governing county jails and workhouses shall be the law of such town or city prison or workhouse; and in all cases where the county jails or workhouses are convenient they may be used for town and city purposes until a town or city prison or workhouse shall be established.

REMOVAL OR CREMATION OF GARBAGE.

Disposal of Garbage—Cities of Fifth Class and Towns.

SEC. 233. The common councils of cities of the fifth class and the trustees of towns are empowered to erect crematories for the consumption of garbage by fire, and to pass by-laws and ordinances to secure the removal or cremation of slops, garbage, carcasses of dead animals and other waste or unwholesome materials from their corporate limits, and to appoint or contract with persons for such removal or cremation, and to provide that the persons ap-

pointed or contracted with shall have the exclusive right to remove or cremate the same, and to enact such penalties for the violation of such by-laws and ordinances as may be necessary, and in accordance with the provisions of this act.

LAWNS AND SHADE TREES.

Control of Lawns and Trees Along Streets.

SEC. 234. Every city and town is hereby invested with full power to regulate the planting, maintaining and production of shade trees and lawns along the streets and in the public grounds of such city or town; and such city or town is given full power to compel the owners of lots and parcels of ground bordering on any such street, alley, public square or common, to plant, maintain and protect shade trees and lawns, under the same regulations and in the same manner as grading, paving and other improvements of streets and sidewalks are now enforced; and the expense of such improvements, when so ordered by ordinance of such city or town, shall be a lien on such lots and parcels of ground and be collected in the same manner as assessments for street improvements. All laws for the improvement of streets in cities and towns are hereby made applicable to the improvements provided for in this section.

REFUNDING BONDS.

Issue of Refunding Bonds.

SEC. 235. Any city or town, being indebted, or hereafter becoming indebted, and whose indebtedness is or shall be evidenced by bonds, notes or other obligations heretofore or hereafter issued or negotiated by such city or town, may, for the purpose of funding or refunding such indebtedness, or any part thereof, reducing the rate of interest thereon, extending the time of payment and cancelling so much thereof as may be due or shall hereafter become due, by the vote of two-thirds of the members of the common council of such city or board of trustees of such town, issue its bonds with interest coupons attached, for an amount not exceeding in the aggregate the whole amount of the indebtedness of such city or town, which bonds may be of any denomination, not less than fifty dollars nor more than one thousand dollars, and shall be payable at any place named therein and at a time not later than thirty years from the date thereof, and shall bear any rate of interest not exceeding six per cent. per annum, payable annually or semi-annually, and be sold at not less than par value. The common council of such city or board of trustees of such town shall add to the tax duplicate of such city or town, annually, a levy sufficient to pay the yearly interest on such bonds and also not

less than five cents on the hundred dollars' tax valuation to provide a sinking fund for the liquidation of the principal when it shall become due, which sinking fund, together with the interest, increase or profit thereon, shall be applied solely to the payment of such bonds. The interest coupons on such bonds shall be receivable in payment of taxes levied for payment of such interest. Such city or town shall also have authority, temporarily, to invest its sinking fund, or any other specific fund, in the bonds of the government of the United States or of the State of Indiana, or of any of the counties of the state, or in the street and sewer or other public improvement bonds of such city or town, during such time as such sinking fund can not be advantageously used in taking up and paying off such city or town bonds, or such other specific fund can not be used for the purpose for which it was levied.

POSTING NOTICES.

Legal Notices—When May Post.

SEC. 236. All notices required by law to be given by the common council of any city or the board of trustees of any town, or by any officer, board or committee of such city or town, unless otherwise expressly provided, and also in case the method provided can not be followed, by reason of some unavoidable necessity, may be given by written or printed notices, posted up at one or more public places in each ward of such town or city.

MISCONDUCT OF OFFICERS.

Official Misconduct—Penalty.

SEC. 237. It shall be unlawful for the common council of any city or the board of trustees of any town, or any officer or board of either of such corporations, to allow any claim against such city or town, or to order the issue of any warrant for the payment of money by any such corporation, except at a session of such common council or board, unless expressly authorized by law so to do; and no clerk or other officer of any city or town shall draw any warrant in favor of any person until so ordered and allowed, unless authority so to do is given in this act. No such claim shall be allowed until duly itemized and verified, and filed in the office of the clerk and placed upon the claim docket at least five days before the session at which the claim is to be allowed. It shall be the duty of such clerk to enter such claim upon such docket, when filed, stating the name of the claimant, the amount claimed and for what, and the date of filing. When the claim has been acted upon the clerk shall note upon the docket the action taken, and the docket shall at all times be open to any taxpayer for inspection.

The clerks of cities and towns shall administer all oaths required by this section free of charge. Any city or town officer who shall violate any of the provisions of this section, and any clerk, city or town attorney, or other officer of any city or town, who shall, directly or indirectly, aid or assist in seeking to recover any claim, or in the prosecution of any action against such city or town, shall, on conviction, be fined not less than fifty dollars, and shall be removed from office.

City or Town Attorney—Misconduct—Removal.

SEC. 238. Any city or town attorney, or any other officer of any city or town, who shall appear for, act for, or take any compensation from, any person or corporation for aiding or assisting such person or corporation in procuring any contract from, or obtaining any license, franchise or privilege from such city or town, shall at once be removed from his said office and forfeit his right thereafter to receive any appointment to office in such city or town, or obtain any employment thereunder.

Mayor or Trustees May Revoke License.

SEC. 239. The mayor of any city, and the president of the board of trustees of any town, is hereby authorized to revoke or suspend any license given to any person or corporation under the provisions of this act or of ordinances passed hereunder, whenever such person or corporation has violated the terms or conditions of such license or of the law or ordinance under which it is granted. And such mayor or president of such board of trustees may order any theater, music hall or other public building closed, when it is made to appear to such mayor or president of such board that such public building is, by reason of its construction or management, unsafe to the people therein congregated; or to persons adjacent thereto; or that it is not constructed and maintained as required by law or the ordinances of such city or town.

Oppression, Malconduct or Misfeasance—Penalty.

SEC. 240. In case the mayor or other officer of any city or town shall wilfully or corruptly be guilty of oppression, malconduct or misfeasance in the discharge of the duties of his office, he shall be liable to be prosecuted by indictment or affidavit in any court of competent jurisdiction, and, on conviction, shall be fined not exceeding one thousand dollars, and the court in which such conviction shall be had shall enter an order removing him from office.

Union of Adjoining Cities or Towns—Procedure.

SEC. 241. Where a city and a town, or two cities, or two towns, adjoin each other, they may be united provided a majority of the qualified voters voting on such question of union, in each of such adjoining corporations, shall vote in favor of such union. The common council of such city and the board of trustees of such town, or the common councils of such cities, or the boards of trustees of such towns, as the case may be, shall, by a resolution, passed by each council or board, first agree on the terms upon which such union shall take place, including the name by which the united corporation shall be known and the day upon which an election for the purpose shall be held in each of the adjoining municipalities. Notice of such agreement shall be given at least twenty days before the time fixed for such election, by publication of the same for two weeks successively, once each week, in each newspaper published in each of such corporations, and by posting printed copies thereof in one or more public places in each ward of each of such corporations. Such election shall be held in the voting precincts of each of such corporations, as other city and town elections are held. The ballots for such election shall have thereon the words "Yes" and "No," and those electors favoring such agreement shall vote "Yes," and those opposed, "No;" and the election boards shall report to their respective common councils or boards of trustees the result of such election. A certified copy of the result of the election in each corporation shall be filed with the common council or board of trustees of the other corporation; and if a majority of the electors, voting on such question in each of such corporations, vote in favor of such union, then the two corporations shall be united in accordance with the terms of the agreement theretofore entered into; and a duly certified copy of such agreement, and of the result of such election, shall be filed in the office of the recorder of the county or counties in which such united corporation is situated, signed by the mayor or presiding officer and attested by the clerk and sealed with the seal of each of such constituent corporations; and copies of such record shall be received in all courts and places as conclusive of such union of such corporations under the name so agreed upon. In case of such union, the new corporation shall be liable for all the debts, contracts and liabilities of the constituent corporations, and shall be entitled to all the rights, credits, moneys, effects and properties theretofore had, held or owned by them or either of them, and may sue and be sued in relation to such debts, contracts, liabilities, rights, credits and properties by the name adopted on such union. But all actions pending at the time of

such union shall be prosecuted to final judgment and execution, and all judgments theretofore rendered may be executed and enforced against the new corporation, without any change of the name of the plaintiff or defendant.

Corporate Boundaries—Annexation of Lands.

SEC. 242. The common council shall have power, by ordinance, to declare and define the entire corporate boundaries of such city, and such ordinances, properly certified, shall be conclusive evidence, in any court or proceeding, of the boundaries of such city, except as provided in the next section. Such ordinances defining the entire city boundary may include contiguous territory, whether platted or not, not previously annexed (and such annexation shall be binding, unless such newly annexed territory shall be within the limits of another town or city, in which case there may be an appeal, as hereinafter provided). Said common council may also, by separate ordinance, not purporting to define the entire boundaries of such city, annex contiguous territory, whether platted or not, to such city, and a certified copy of such ordinances shall be conclusive evidence in any proceeding that the territory therein described was properly annexed and constitutes a part of such city, except as provided in the next section. Immediately after the passage of every such ordinance as is provided for in this section, the same shall be published for at least two consecutive weeks in a daily newspaper of general circulation published in such city.

Remonstrance Against Annexation—Trial.

SEC. 243. Whenever such territory is annexed to such city as provided in the foregoing section, whether by general ordinance defining the city boundaries, or by special ordinance for the purpose of annexing territory, and such territory so sought to be annexed is unplatted ground, or lies within the corporate limits of any other town or city, an appeal may be taken from such annexation by one or more persons deeming himself or themselves aggrieved, or injuriously affected, filing their remonstrances in writing against such annexation, together with a copy of such ordinance, in the circuit or superior courts of the county where such territory is situated within ten days after the last publication provided for in the preceding section; such written remonstrance or complaint shall state the reason why such annexation ought not in justice take place. Notice of such proceedings by way of summons shall be served upon the proper officers of the city seeking to make annexation, and such city shall become defendant in such cause, and shall be required to appear and answer as in other cases. The court shall thereupon proceed to hear and deter-

mine such appeal without the intervention of a jury, and shall give judgment upon the question of such annexation according to the evidence which either party may introduce relevant to the issue. If the court should be satisfied upon the hearing that less than seventy-five per cent. of the persons owning property in the territory sought to be annexed, if such territory is unplatted ground, or that less than two-thirds of the qualified voters of the town or city sought to be annexed, if such territory lies within the corporate limits of any other town or city, have remonstrated and that the adding of such territory to the city will be for its interest and will cause no manifest injury to the persons owning property in the territory sought to be annexed, he shall so find and said annexation shall take place. If the court shall be satisfied that seventy-five per cent. or more of the persons owning property in the territory sought to be annexed, if such territory is unplatted ground, or that two-thirds or more of the qualified voters of the town or city sought to be annexed, if such territory lies within the corporate limits of any other town or city, have remonstrated, then such annexation shall not take place, unless the court shall find from the evidence that the prosperity of such city and territory will be materially retarded and the safety of the inhabitants and property thereof endangered without such annexation. In case the court shall so find, the annexation shall take place, notwithstanding the remonstrances. Such decision shall be final, and no appeal shall lie therefrom, nor shall the laws touching change of venue from the county apply. But changes of venue from the judge may be had as in other cases. Costs shall follow judgment. Pending such appeal, and during the time within which such appeal may be taken, such territory sought to be annexed shall not be deemed a part of the annexing city. Upon the determination of such appeal the judgment shall particularly describe the ordinance upon which the appeal is based, and it shall be the duty of the county clerk to forthwith deliver a certified copy of such judgment to the clerk of such city, who shall record the same in the ordinance record, and make a cross reference to the page thereof upon the margin where such original ordinance was recorded. In case the decision is adverse to such annexation, no further annexation proceedings for such territory shall be lawful for two years after the rendition of such judgment: *Provided*, That in case any incorporated town or city shall be located within the corporate limits of such other city and not annexed as contemplated in this act, such incorporated town or city so located as aforesaid, shall not be entitled to have or receive from such incorporated city within which it is located, any fire or police protection, until such minor town or city shall first have entered into a contract or agreement with the city within which it is located, binding such minor

corporation to pay a reasonable compensation to be agreed upon mutually by such corporate authorities. The same regulation shall apply to sweeping, cleaning and sprinkling service, and to sewer privileges: *Provided,* That if the corporate authorities of such municipalities can not mutually agree as to the compensation to be paid for such services and privileges by such minor town or city, either of such municipal corporations may by petition present the matter to the judge of the circuit court of the county in which such municipalities are located, who shall cause such other town or city to be notified of such petition, and require the same to answer thereto, and shall have jurisdiction on such applications to hear and determine such matter and determine and fix such reasonable compensation, and his adjudication shall be final. The cost of such proceedings shall be paid by the municipality making such application.

Parts of City or Town Not to be Annexed—Debts.

SEC. 244. No such annexations shall be made, under the foregoing sections, of a part of the territory of any other incorporated town or city, but only of the whole corporate territory thereof. In case of such annexation, the two corporations shall be deemed to be consolidated, and the consolidated corporation shall be bound for all the debts and liabilities, and shall be the owner of all corporate property, franchises and rights of every nature, of both of such municipal corporations.

Disannexing Territory.

SEC. 245. The common council shall have power by ordinance to disannex and throw out any territory forming a part of the corporate limits of such city upon a petition of a majority of the owners of real estate therein, but such disannexation shall not relieve such territory from the payment of any municipal assessments for which such real estate may have become liable.

Additions to Cities and Towns—Plats.

SEC. 246. Any person who may lay off any town or addition thereto, or any addition to any city or town, or any subdivision of any lots or lands within the limits of any city or town, shall, previous to the sale of any lots in such town, addition or subdivision, cause to be recorded in the recorder's office of the proper county a correct plat of such town, addition or subdivision, with the public grounds, streets and alleys properly marked, showing the length and width of each, and with the lots regularly numbered and the size thereof marked upon the plat. Every donation or grant to the public, or to any individual, religious society, corporation or body politic, noted as such on such plat, shall be considered a general

warranty to the donee or grantee on such plat named or indicated, for the purposes intended by the donor or grantor. Before offering such plat for record the maker shall acknowledge the same before some officer authorized by law to take and certify acknowledgments of deeds; a certificate of which acknowledgment shall be, by the officer taking the same, annexed to such plat and recorded therewith. No plat not so made and acknowledged shall be entitled to record.

Plats—Submission for Approval—Recording—Penalty.

SEC. 247. Whenever a plat is made of any lots or lands as an addition to any city or town, or as a subdivision of any lots or lands within such city or town, such plat shall be submitted for approval of the board of public works, in any city of the first, second, third or fourth class, the common council in any city of the fifth class, or the board of trustees in any town, as the case may be, before the same is offered for record in the recorder's office. Such board of public works, common council or board of trustees, after examination duly made, shall approve or disapprove such plat. Such board, common council or board of trustees may require the streets and alleys, therein shown, to be as wide as, and to be conterminous with, the streets and alleys of that part of the city or town to which it adjoins. The county recorder is prohibited from recording any such city or town plat unless the same shall have attached thereto a certificate in due form showing such approval. For any violation of this section any county recorder shall, on conviction, be fined not more than three dollars; and the record of any plat not executed and approved as herein required shall be null and void.

Survey and Plat of City or Town—Adoption.

SEC. 248. Any city or town not having a sufficient survey and plat of its corporate territory may, by a resolution of the common council or board of trustees of such city or town, passed by a two-thirds vote, order and direct that a survey and plat of such city or town shall be made by competent persons, to be named in such resolution. When such survey and plat have been made, as ordered, the common council or board of trustees, as the case may be, may adopt the same, by a resolution, passed by a three-fourths vote of all the members of such council or board. In case a survey and plat of such city or town have been already made, without the order of the council or board, and such council or board may wish to adopt the same, it shall be competent to do so, by a resolution, passed by a like vote of three-fourths of all the members of such common council or board of trustees. When such survey and plat, together with a certified copy of the resolution adopting the same,

and a statement of the vote thereon, with the names of the members voting for and against such resolution, signed by the mayor and clerk, in case of such city, or by the president of the board and clerk, in case of such town, and attested by the seal of such city or town, shall have been recorded in the office of the recorder of the county in which such city or town is located, the said survey and plat shall be deemed and taken as adopted by such city or town for all purposes whatsoever; and the original, or the record thereof, or any duly certified copy of either, shall be admissible in evidence in any judicial proceeding or for any other purpose. The original of such survey and plat, when recorded, shall be deposited in the office of the city or town clerk.

PUBLIC UTILITIES.

Waterworks, Gas Works, Etc.—Bonds—Election.

SEC. 249. Any city or town may determine to erect waterworks, gas works, electric light works or a heating or power plant, or any other works or public utilities provided for in section ninety-three, clause eight of this act, or to purchase or lease any such works already constructed or in course of construction and owned by any person, corporation or company, together with all the property, rights and privileges connected therewith, and may also purchase, or lease, other lands for like purposes; and such city or town is hereby authorized, for the purpose of procuring means for erecting, extending, improving, purchasing or leasing any such works, and thus furnishing the inhabitants of such city or town with water for domestic and fire protection, or with light, power or heat, to issue the bonds of such city or town, in denominations not less than fifty nor more than one thousand dollars, payable at any place that may be designated in the bonds, the principal in not less than five years nor more than thirty years, and the interest annually or semiannually, at a rate not to exceed six per cent. per annum; and such city or town may, from time to time, negotiate and sell so many of such bonds as may be necessary for any of such purposes, in any place and for the best price, not less than par value, that can be obtained therefor: *Provided,* That the common council of any city or board of trustees of any town contemplating the building, extension, improving, purchasing or leasing of any such works, shall, before the approval of any such contract or resolution for such erection, purchase or lease, first submit the question to the qualified voters of such city or town, at a special or general election, of which election and the submission of such question thereat, notice shall be given for twenty days by publication for two weeks, once each week, in a newspaper of general circulation printed in such city or town, if any there be, and,

if not, in a newspaper published in the county. Voters desiring such works may vote "For Water Works," "For Gas Works," "For Electric Light Works," "For Power Plant," or "For Heating Plant," as the case may be, or, if opposed, "Against Water Works," "Against Gas Works," "Against Electric Light Works," "Against Power Plant," or "Against Heating Plant," or for or against any other such works or public utilities, as the case may be; and if a majority of the voters voting on such question at such election be in favor of such works, such city or town shall have power to build, extend, improve or purchase any such works; and the common council or board of town trustees shall thereupon, by ordinance, approve such contract or resolution.

Location—Condemnation.

SEC. 250. Any city or town, which shall determine to build water works, gas works, electric light works or a heating or power plant, or purchase or lease any such works already constructed or in course of construction, or purchase or lease lands for like purposes, as provided for in the last preceding section, shall have authority to locate any such works with all appurtenances, and to lay such lines of pipe, poles, wire and conduits therefrom throughout such city or town as may be required. And in case the use of any lands, lots, water-rights or easements, or the use of any water from any pool, lake or stream or easement therein, or the use of such pool, lake or stream itself or easement therein, or any other property or property rights, shall be found necessary for the building, maintaining or operating of any such works or for the protection of the same from injury, it shall be lawful for the board of public works of any city of the first, second, third or fourth class, or the common council of any city of the fifth class or the board of trustees of any town, by themselves or agent or agents, to enter upon and take possession of such lands, lots, rights, easements, and other property and rights hereinbefore mentioned, as provided in this act for the appropriation of lands for the opening of streets, and to use the same for the erection, maintaining, operating and protection of such works, and for the supply with water, gas, steam or hot air of any pipes, conduits, stand-pipes, reservoirs and settling and filtering basins, connected therewith, and to conduct therefrom electrical currents by wire, poles, conduits and other means as may be deemed suitable in each case. For the purpose of such use and for the protection of any such works and the preservation of the same from injury or pollution, such board of public works, common council or board of trustees, as the case may be, shall have jurisdiction for ten miles beyond the limits of such city or town: *Provided,* That before such board of public works, common council or board of trustees shall proceed to take possession

of any such lands, lots, water, water-rights, easements, pools, lakes or streams, or any other property, rights or easements, for any of such purposes, they shall appraise and assess the damages and benefits accruing to the owners of such lands, lots, water, water-rights, easements, works, plants, pools, lakes or streams, or other property rights or easements, so to be taken for any of such uses. Such board of public works, common council or board of town trustees shall meet for the making of such assessment of damages and benefits, on request therefor; and all further proceedings in relation to the taking of such property for such purposes shall be as provided in this act for the taking of lands for the opening of streets. No such works or plant shall be so purchased subject to any lien or incumbrance already thereon, which, when added to the indebtedness of such city or town, would make a sum in excess of two per centum on the value of the taxable property within such corporation.

Management and Control.

SEC. 251. When any city or town shall own or operate water works, gas works, electric light works or a heating or power plant, as provided for in the last two preceding sections, such city or town may establish rules and ordinances for their management and control, and may, by its board of public works, or committees of such common council or of such board of trustees, as in other cases, direct and supervise the same; and such board of public works, as in other cases, and any such common council or board of trustees, may employ superintendents, clerks, or other employes, as may be necessary and proper, to manage and conduct such works, at and for such compensation as may be fixed by ordinance. Every such superintendent shall be required to give a bond to the state of Indiana, for the use of such city or town, in a sum not less than double the estimated amount of rents or other moneys that may be in his hands at any time, which bond shall be conditioned for the faithful discharge of his duties and the payment to the proper person or persons of all moneys in his hands as such superintendent, and shall be subject to the approval of the mayor of such city or board of trustees of such town: *Provided,* That every such superintendent shall, once each week, pay over to the treasurer of such city or town, and take his receipt therefor, all rents, moneys and income of such water works, gas works, electric light works or heating or power plant which shall have come into his hands during the previous week. Such treasurer shall be the custodian of all funds belonging to any such works, whether derived from direct taxation, by appropriation of such common council or board of trustees, or from rents and other income of such works; and the funds belonging to each of

such works shall be kept by such treasurer as a separate and distinct fund, and shall not be appropriated to any other use or purpose than for the benefit of the particular works from which they have been derived or for which they have been appropriated, and for the payment of employes and the general running expenses thereof.

Board of Public Works—Trustees—Control.

SEC. 252. On the taking effect of this act, the custody, management and control of all water works, gas works, electric light works and heating or power plants, owned or operated by any city of the first, second, third or fourth class, shall, except as otherwise expressly provided in this act, be wholly in the board of public works of such city, as in this act elsewhere provided; and, in cities of the fifth class and in towns, such custody, management and control shall be in their common councils and boards of trustees, respectively, and in committees and officers and agents thereunder appointed, as hereinbefore provided. And on the taking effect of this act, except as otherwise provided in this act, all trustees and commissioners of water works, electric light works and other officers in charge of any such water works, electric light works, gas works, power or heating plants in any city or town under former laws, shall at once turn over all such works, together with all books, papers, moneys and other property in their custody to the proper authorities appointed under this act, and thereupon all such trustees, commissioners and other officers and employes under former laws shall at once vacate their said offices and employment.

Contracts for Works and Buildings.

SEC. 253. Any city or town may by contract, first entered into by the board of public works of any city of the first, second, third or fourth class, or the proper committee of the common council of any city of the fifth class, or of the board of trustees of any town, as the case may be, such contract to be duly approved by ordinance, as in other cases, grant to any person or corporation the right to lay down pipes, wires or conduits; to construct sewers or drains; or to erect poles, wires, posts, masts, skeleton towers, and other necessary appliances and structures, in the streets, alleys and other public places of such city or town, and to maintain them there, for the purpose of supplying such city or town and its inhabitants with water for fire protection and domestic use, and with facilities for drainage and sewerage; or with water, steam, gas, electricity or other means of conveying motive power, heat, light or intelligence, for the convenience and welfare of the people. And in such contract, so approved by ordinance, such city

or town shall provide all necessary regulations and restrictions for the proper placing of such poles, pipes, wires and other structures and appliances, so as to cause the least inconvenience to the public and the least injury to the use of private property, and shall provide for the safe and convenient supply and distribution of such water, gas, electricity or other elements, and for facilities for drainage and sewerage connections. To this end, such city or town may, at any time, in the granting of such franchise, or wherever public safety demands it, require all pipes and wires to be placed under ground, or that any other measures shall be taken which may be deemed for the greater safety or better accommodation of such city or town and its inhabitants, or of the public. In granting such franchise such city or town shall also provide for the terms on which such water, gas, steam, electricity or other element, and such drainage and sewerage connections, shall be supplied to the city or town and to its inhabitants, as well as for reasonable license fees or other compensation to be paid to such city or town for any such franchise and privilege: *Provided,* That where any city or town has heretofore granted a franchise to any person, persons or corporation to use the streets, alleys or other public places of such city or town, such franchises are hereby in all respects legalized and made valid and shall be as effective as if granted under the provisions of this act.

Grant of Corporate Franchise—Limit.

SEC. 254. Any city or town may enter into contract with any person, corporation or association to furnish such city or town and its inhabitants with water, motive power, heat or light, or to build or extend railroads, interurban or street car lines, telegraph or telephone lines, or other public conveniences into or through such city or town; and may provide in such contract the terms and conditions on which such water, motive power, heat, light, railroad, interurban, street car, telegraph or telephone services, or other uses and accommodations of such and other public conveniences may be furnished by such person, corporation or association to such city or town, and to its inhabitants: *Provided,* That no such contract shall be entered into by any city or town for furnishing such city or town and its inhabitants with water, motive power, heat or light, upon or along the streets of such city or town for a term longer than twenty-five years: *And provided, further,* That before any such contract shall be made by any city of the first, second, third or fourth class, such contract shall be first agreed to by the board of public works of such city, after which agreement such board shall cause a proper ordinance approving and confirming such contract to be presented for adoption by the common council of such city. For the purpose of aiding in the

erection or extension of any such public utilities and conveniences, any city or town is authorized to become a part stockholder by subscribing to the capital stock thereof in any such corporation so contracting to furnish the city or town and its inhabitants with water, motive power, heat, light and other accommodations aforesaid. And such city or town shall have the power to borrow money to pay for the stock so subscribed, and the common council of such city or board of trustees of such town may issue the bonds of such city or town payable at such time or times as such common council or board of trustees may direct, and bearing interest at a rate not exceeding six per centum per annum, payable annually or semi-annually, and may negotiate and sell the same at not less than the face value thereof. The proceeds of such bonds shall be applied only to the payment of the stock so subscribed.

Paving—Corporation's Portion—Payment.

SEC. 255. Whenever any city or town may have heretofore entered or may hereafter enter, into a contract with any person, corporation or association to build or extend interurban or street car lines over, along and upon the streets of such city or town, and such person or corporation or association, by the terms of such franchise or contract, is required to pave any part of any street or alley in such city or town, then such city or town shall extend to such person, corporation or association, if it should be so requested by such person, corporation or association, a period of time in which to pay for any of the improvements made. Such city or town shall, when such person, corporation or association shall so request, and shall execute and file with the proper authority of such city or town the stipulation and agreement waiving objection on account of illegality or irregularity of proceedings, as required by this act in case of owners of abutting property, by proper contract, enter into an agreement with such person, corporation or association to issue bonds for a period of years agreed to by such city or town, and such person, corporation or association, and shall issue the same according to such agreement. Such bonds shall be in such denominations as may be agreed upon and shall bear interest not to exceed six per centum per annum. The amount of such bonds shall be equal to the amount due for the assessment against such person, corporation or association for such improvement, and such bonds shall be divided into a series of equal parts corresponding to the number of years in which the bonds are to be payable. One equal series of such bonds shall become due and payable each year with interest on the whole amount of the bonds, which interest shall be payable semi-annually. The said bonds shall be issued and sold by said city or town in the same manner and be governed by the same laws as other street

improvement bonds. And in case the assessment is against any corporation or association for such improvement such bonds shall not be issued and such corporation or association shall not receive the rights and benefits conferred herein until such corporation or association shall have called a meeting of its stockholders and had them accept the ordinance or resolution passed by the common council of such city or the board of public works of such town, and after such action by the stockholders the directors of such company or association shall ratify the action of such stockholders, and certified copies of the minutes of the meetings are to be properly attested and filed with the clerk of such city or town. Such improvement bonds shall have the same priority over all other liens as have assessments for other street improvements, and shall be the first lien on all the property, assets and franchises of such person, corporation or association. Should any such person, corporation or association fail to pay any bonds, or interest thereon, at maturity, then all of the said bonds shall become due and payable at the option of the holder or holders of the same, or such common council and such board of trustees, and the same may be foreclosed as any other street improvement bonds, in which action the plaintiff or plaintiffs may have a receiver appointed to take charge of the assets of such person, corporation or association, and sell all the property to satisfy such improvement bonds: *Provided, however,* No action shall be brought upon any such bond or bonds until there is a default for a period of six months after the payment of principal or interest on any such bond or bonds is due. Nothing in this section shall be construed to mean an extension of the liability of such city or town on account of such improvements beyond the liability existing as to other street improvement bonds.

Corporate Rights in Condemnation.

SEC. 256. Any corporation engaged in the business of providing any city or town and its inhabitants with water, sewerage, gas, electric light, heat, power or other public convenience, as provided for in the last two sections, shall have the right to acquire such real estate and rights of way, whether within or without the limits of such city or town, as may be necessary for its business, under the right of eminent domain, as fully as if the law in relation to such right were incorporated in this act and made a part of the same.

Tax to Pay for Utilities or Rental.

SEC. 257. For the purpose of paying the principal and interest on money borrowed for the erection, purchase, lease, completion, extension or improvement of any water works, gas works, electric

light works, heating or power plant, as provided for in sections two hundred and forty-nine, two hundred and fifty and two hundred and fifty-one of this act, the common council of any city or board of trustees of any town shall levy an annual tax of sufficient amount, not exceeding fifty cents on the hundred dollars valuation on all the taxable property of such city or town, together with one dollar on each poll. And where such city or town has contracted with any person, corporation or association for supplying such city or town and its inhabitants with water, gas, electric light, heat, power or other public convenience, as provided in sections two hundred and fifty-three and two hundred and fifty-four of this act, and has in such contract agreed to pay a stated rental or other compensation therefor to such person, corporation or association, or has issued bonds to pay for stock in any such company, such common council or board of trustees shall levy an annual tax for payment of the rent or rents or other consideration so by such city or town to be paid for water, gas, electric light, heat, power or other convenience furnished for the use of such city or town and its inhabitants, and to pay the interest and principal of such bonds, which tax shall not exceed thirty-five cents on the one hundred dollars valuation on all the taxable property of such city or town, together with one dollar on each poll. Such tax, whether for payment of bonds and interest, as aforesaid, or for payment of such rental or other compensation for water, gas, electric light or other convenience so furnished such city or town or to pay interest and principal on bonds issued to pay for stock subscribed, as aforesaid, shall be levied and collected as other municipal taxes are levied and collected, and the proceeds thereof shall be used only for the purposes for which such tax was levied.

PUBLIC PARKS.

Cities of Third, Fourth, Fifth Class and Towns—Parks.

SEC. 258. Any city, other than a city of the first or second class, or any town, which shall, by ordinance, decide to establish, locate, lay out or improve any public park, parks or grounds, or to make extension of such parks or grounds where they have heretofore been located, established, improved or commenced, shall have authority to locate such parks or public grounds, with all appurtenances, and lay out and open such roads, streets, avenues or drives as may be required for such improvement; and, in case the use of any lands, lots, water rights or easements, or of any pond, lake or natural stream of water, shall be found necessary for the establishment, location, maintenance or improvement of such parks or grounds, it shall be lawful for the board of public works of any city having such board, or the common council of any other city,

or the board of trustees of any town by its committees or agents, to enter upon, take possession of and condemn the same for these uses. For the purpose of such condemnation and use such city or town shall have jurisdiction for five miles beyond the limits of such city or town: *Provided,* That before such board of public works, common council or board of trustees shall proceed to take possession of such lands, lots, water rights, easements, pools, lakes or natural streams of water for the purpose above mentioned, they shall appraise and assess the damages accruing to the owners of any lands, lots, water rights, easements, pools, lakes or natural streams of water, so to be taken and condemned for such public purposes. And such board of public works, common council or board of town trustees shall meet for such appraisement; and all further proceedings in relation to the taking of such property for such purposes shall be as provided in this act for the taking of lands for the opening of streets.

Park Ordinances and Rules—Tax, Bonds, Etc.

SEC. 259. The board of public works or common council of any city, other than a city of the first or second class, or the board of trustees of any town which may have established any public park, is authorized to pass such ordinances and make such rules and regulations with regard to the laying out, improvement, preservation, ornamentation and management of such park as such council or board may deem proper. The erection in such parks, under supervision of such board of public works, common council or board of trustees, of monuments or buildings for libraries, works of art or historical collections, shall be allowable, provided such monuments or buildings be under the control of the persons in charge of any such park, and that no enclosure separate them from the rest of such park. Such common council or board of trustees may also levy a tax, not exceeding five cents on the one hundred dollars valuation on all taxable property within the limits of such city or town, to defray the expenses of procuring any such park lands or waters and for the purpose of improving the same. Such common council or board of trustees may likewise borrow money and issue the bonds of such city or town, at a rate of interest not exceeding six per cent. per annum, payable annually or semi-annually, and sell the same at any price not less than the par value; and the money derived from the sale of such bonds shall be used only for the purchase or improvement of such park or parks. Such common council or board of trustees shall annually levy a tax sufficient to pay the interest on such debt, and shall levy not less than two cents on the hundred dollars valuation on all the taxable property of such city or town to create a sinking fund for the liquidation of the principal of such debt.

Custody and Management.

SEC. 260. On the taking effect of this act the custody and management of all public parks, in cities of the third and fourth classes, shall be in the board of public works of such cities, and, in cities of the fifth class, shall be in the common council, its committees and appointees; and in all towns shall be in the boards of trustees and like committees and appointees. And after the taking effect of this act, all park commissioners and other officers having any charge of such parks by virtue of any former laws shall at once turn over to the proper custodians under this act all books, papers, moneys and property in their custody as such officials and employes, and thereafter all authority of any such former officials shall at once cease and terminate.

CEMETERIES.

Control and Management of Cemeteries.

SEC. 261. In any city of the first, second, third or fourth class, the board of public works, subject to ordinance, and, in cities of the fifth class, the common council, by its proper committees, and, in towns, the board of town trustees, shall have charge, control and management, respectively, of all public cemeteries, belonging to any such city or town, together with the approaches thereto. Such board of public works, common council or board of trustees, as the case may be, shall appoint all officers and agents for the proper control, care and maintenance of such cemeteries as are now or may hereafter be established by any such city or town, or committed to their custody by the laws of the state in reference thereto: *Provided,* That in any city where a city cemetery has heretofore been in charge of a board of trustees appointed by the mayor, such trustees shall continue to be so appointed and such board of trustees shall continue to have charge of such cemetery and of its funds and other property, under laws now in force: *And provided, further,* That any city or town that owns or controls a city or town cemetery may, by ordinance, provide for the appointment of a board of trustees for such cemetery for the control and management of the cemetery, its funds and affairs; which board of trustees shall be appointed from the lot owners of such cemetery who are residents of the county in which such cemetery is situated. The ordinance providing for the creation and appointment of such board of trustees shall prescribe the manner of organization of the board and the duties of the officers and members.

Conveyance to City or Town by County Commissioners.

SEC. 262. It shall be lawful for the board of commissioners of any county at any regular session of such board, to convey to any

city or town any public cemetery in the vicinity of or within the corporate limits of such city or town, upon the application of the board of public works or common council of such city or the board of trustees of such town, as the case may be: *Provided,* That notice of such application shall have been given by publication for two weeks successively, once each week, in a newspaper of general circulation printed in such city or town, or by posting in three public places therein, for not less than twenty days before such session of such county board. Upon such conveyance being made, it shall be the duty of such city or town to accept and record the same upon its records and upon the record of deeds in the recorder's office of the county, and to take possession of, control, improve, protect, and preserve such cemetery, and to lay out lots and make all regulations for interments therein. Such common council or board of trustees shall have full power to make and enforce ordinances for the control and protection of such cemetery, and for the prosecution and punishment of any person trespassing on or committing waste therein, or upon any grave, monument, tomb or tombstone, inclosure or ornament thereof, or upon any trees, shrubbery or flowers therein.

May Vacate—Petition and Finding—Re-Interment.

SEC. 263. When any cemetery within, or in the vicinity of, the corporate limits of any city or town in this state has been or shall hereafter be conveyed to such city or town by the board of county commissioners, or when any such cemetery exists wherein burials have been made by the license or permission of the owner or owners of the lands whereon such cemetery is located, or when any such cemetery exists by dedication for burial purposes of the lands on which it is situated, or when such city or town has in any other manner come into the custody or ownership of such cemetery, or the lands on which such cemetery is located, the common council of such city or the board of trustees of such town may vacate such cemetery as hereinafter provided. When five resident free-holders of such city or town shall, in writing, petition the common council of such city or the board of trustees of such town to vacate such cemetery, such petition shall be entered at length in the proper record of proceedings of such common council or board of trustees. And if, on considering such petition, such common council or board of trustees shall find that such cemetery has fallen into neglect and disuse; that remains of deceased persons have been, from time to time, exhumed and removed therefrom on account of such neglect, or that such cemetery hinders and obstructs the growth of such city or town, or any part thereof, or that the same is injurious to the health of the neighborhood in which it is located, such finding shall be entered at length in said record of proceedings, togeth-

er with an order that such cemetery be vacated. Such common council or board of trustees shall thereupon prepare, as nearly as may be, a complete list of the names of the deceased persons whose bodies remain interred in such cemetery, and shall publish the same for two weeks successively, once each week in some newspaper of general circulation printed and published in the county, together with a notice to all persons interested, that on and after the time stated in such notice (which shall not be less than sixty days after the last publication thereof) such common council or board of trustees will cause the bodies in such cemetery to be exhumed. The remains of such persons as may be claimed by their relatives or friends shall be delivered to such claimants for removal and re-interment. The remains of all persons remaining unclaimed shall be removed and properly re-interred in some suitable cemetery or burial ground in the vicinity of such city or town, by and at the expense of such city or town; and all monuments, gravestones or other distinguishing marks shall be removed with such remains, and placed in proper position. Such common council or board of trustees shall also record in the proper record of its proceedings, the names, as ascertained, of all deceased persons re-interred, together with a description of the place of re-interment. The title to the cemetery grounds where the same has been or shall be conveyed by the board of commissioners of the county to any city or town, after such cemetery shall have been vacated, shall, in nowise, be disturbed thereby, but the same shall continue in and be preserved by such city or town, and such city or town may convey the same, or any part thereof, in fee simple.

Ground for Cemetery—Gift or Condemnation.

SEC. 264. Any city or town is authorized and empowered to receive by gift, to purchase or to condemn as lands are condemned for the opening of streets, ground within or without such city or town, to be used as a cemetery by such city or town, or in which to re-inter bodies removed from any cemetery which has been vacated under the provisions of the last preceding section, and to inter the bodies of other persons, and such ground shall be held and maintained as a city or town cemetery. Such city or town shall assign and convey for burial purposes to each owner of a lot or lots in such vacated cemetery a lot or lots in such new burial ground equal in number to the lots owned by him in such vacated cemetery, which lot or lots in such new burial ground shall be taken and held by such lot owner in lieu of, and as compensation for, all his rights, title and interest in such vacated cemetery. If the cemetery so vacated shall be a private cemetery, the expense of removing and re-interring the bodies thereon, with their proper monuments or grave-marks, together with the cost of purchasing

so much of new burial grounds, if the same be purchased, as will equal in area the land embraced in such vacated cemetery, shall be a lien upon the lands embraced in such vacated cemetery in favor of such city or town, which lien may be foreclosed according to the same procedure and upon like notice as required for the foreclosure of mortgages. Any city or town may also in any case receive, by gift or purchase, ground within or without such city or town, or may cause lands to be condemned, to be used as a cemetery for such city or town.

Condemnation of Lands—Procedure—Fifth Class or Town.

SEC. 265. The provisions of this act relating to the condemnation of lands, opening, change and vacation of streets and alleys, and to street, sewer and other public improvements in cities of the first, second, third and fourth classes shall apply to cities of the fifth class and to incorporated towns, and the duties of the board of public works in relation to such matters shall be performed, in cities of the fifth class, by the common council, and in towns by the board of town trustees; and the duties of the controller by the city or town clerk, as the case may be. Whenever the common council of any city of the fifth class or the board of trustees of any incorporated town desires the improvement of any street, alley, sidewalk or other public place, or the construction of any sewer and public drain, or change or construction of any levee, the construction or change of any viaduct, tunnel, aqueduct, the change, widening or deepening of any water course, natural or artificial, or the drainage of any tract or parcel of ground in such city or town, or any part thereof, where the cost of the same or any part thereof is to be assessed as special benefits to the abutting or adjacent property, as herein provided, it shall order the same by the adoption of a resolution declaring such improvement to be necessary, and also stating the kind, size, location and terminal points thereof, and shall fix by said resolution a time and place when and where all persons whose property may be affected by such proposed improvement may be heard as to the necessity for the same. Notice of the time and place of hearing such resolution shall be given by two weekly publications, in a newspaper of general circulation, published in such city or town; and if no such paper be published in such city or town, then such notice shall be given for two weeks by posting up five written or printed notices along the line of such improvement. Such common council or board of trustees shall meet at the time and place set forth in such notice and shall hear any and all persons who desire to be heard in person, or by attorney, whose property may be affected by the proposed improvement; and upon such hearing such resolution may be confirmed, modified, changed, altered or rescinded, but the kind

of improvement to be made shall be determined and specified before the resolution is finally adopted: *Provided, however,* That if at any time on or before the day designated for such hearing, there shall have been filed in the office of the city or town clerk, a petition in writing signed by a majority of the resident freeholders whose lands or lots abut upon such street, alley, or other public place to be improved, requesting that the same be paved with any one certain kind of modern city pavement, such designation to be by naming the wearing surface, then such common council or board of trustees shall not have the power or authority to pave such street, alley, or other public place, except with the kind of pavement named in said written petition, except by a two-thirds vote of all of the members of said common council or board of trustees. If there be no such petition filed, the final determination of the material to be used in the wearing surface, as well as a general designation of the rest of the improvement contemplated, shall be set forth in such final resolution. If at such hearing, sixty per cent. of the property owners residing in such city or town, and owning sixty per cent. of the number of lineal feet of the lots, tracts of land, or parcels of ground abutting on such improvement, in case of the proposed improvement of a street, alley or sidewalk, and sixty per cent. of the property owners residing in such city or town, and owning sixty per cent. of the property to be affected, in case of a proposed sewer, public drain, or the change of construction of any levee, viaduct, tunnel or aqueduct, or the change, widening or deepening of any water course, natural or artificial, or the drainage of any tract of land or parcel of ground, shall have filed with the clerk of such city or town their remonstrance in writing against the necessity of the proposed improvement, the same shall not be made unless thereupon ordered by a resolution passed by a two-thirds vote of the common council or board of trustees. Upon the final adoption of any resolution as provided in this section, such common council or board of trustees shall immediately adopt and place on file in the city or town engineer's office, if there be a city or town engineer, and if there be no city or town engineer, then in the office of the city or town clerk, detailed plans and specifications of such improvement; and upon the adoption and filing of such detailed plans and specifications by such common council or board of trustees, it shall at once give notice of the letting of a contract for such improvement by two weekly publications in a newspaper of general circulation published in such city or town, or, if there be no such newspaper, then by posting five written or printed notices along the line of such proposed improvement, and by two weekly publications in some newspaper printed in the county seat of the county in which such city or town, or any part thereof, is located, specifying in such notice the

day, hour and place when and where bids will be opened and considered for such improvement, and within what time the same shall be filed with the city or town clerk, and may provide in such notice what indemnity bidders must file with their bids to insure the execution of the contract, and may provide also that bidders shall each enclose with their respective bids a certified check for an amount not less than two per cent. of his bid to insure the execution of his contract, which checks shall be returned to all unsuccessful bidders, and to the successful bidder only when he shall have signed the contract and given bond in accordance with the provisions of this act, and failing so to do any such certified check shall be forfeited to such city or town and go into the general fund thereof. All bids shall be sealed and shall be filed with the clerk of such city or town prior to the hour fixed for the opening of such bids. At the time specified in such notice the common council or board of trustees shall open the bids and award the contract to the best bidder therefor: *Provided,* That such common council or board of trustees may reject any and all bids, and if deemed advisable re-advertise for bids in like manner as hereinbefore provided. Upon the acceptance of any such bid the successful bidder shall enter into a written contract for the faithful execution of such work and shall give bond in an amount equal to fifty per cent. of the contract price of such work, with freehold sureties, two of whom shall be residents of the county in which such city or town is located, to the approval of said common council or board of trustees to secure the performance of such contract and to hold such city or town harmless from the payment of any debt or damage by reason of the act of such contractor and to secure the payment of all claims for labor and material used in such improvement, which bond shall be in lieu of any and all other bonds heretofore provided for by any other law or laws of this state: *Provided,* That any such contractor may give as surety on any such bond any surety company legally authorized to transact business in the State of Indiana: *And provided,* That no suit to enjoin the construction of any improvement shall be brought by any property owner unless brought within ten days from the letting of such contract. All further proceedings in relation to any such improvement and matters connected therewith shall be done and performed in accordance with the requirements of sections 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, and 120 of this act and the duties imposed upon the board of public works by such sections shall, in cities of the fifth class, be performed by the common council, and in towns, to be performed by the board of trustees; the duties imposed upon the common council by such sections shall, in cities of the fifth class, be performed by the common council, and in towns be performed by the board of trustees. The

duties imposed by said sections upon the department of finance shall, in cities of the fifth class, be performed by the city clerk, and in towns, by the town clerk; and the duties imposed upon officers by said sections shall, in cities of the fifth class, and in incorporated towns, be performed by the officers performing similar duties in such cities and towns.

GENERAL POWERS.

Common Council—Board of Trustees—General Powers.

SEC. 266. The common council of every city and board of trustees of every town shall have power to pass all ordinances necessary to more effectually carry into execution the powers in this act granted them in relation to the opening, change, vacation or improvement of any street, alley, water course or public grounds, or any other public improvement of such city or town, and which are not inconsistent with the laws of the state; and such common council or board of trustees may also cause to be opened up and prepared for public use all streets, alleys, water courses or public grounds which have been dedicated or duly laid out, but not as yet thrown open to the public; and shall have power to cause all obstructions to be removed from such streets, alleys, water courses and public grounds. It is made the duty of the police officers of any city or town, when directed to do so by the proper city or town authority, to open up any street, alley, water course or public grounds, and to remove any and all obstructions therein. When any person, after five days' notice given by order of the board of public works or the common council of any city or the board of trustees of any town, shall fail, neglect or refuse to remove obstructions from such street, alley, water course or public grounds, such council or board shall cause the same to be removed at the expense of such person, and shall direct the city or town attorney to institute an action therefor, and judgment shall be rendered against such person for the reasonable expense and costs of such removal.

Streets, Alleys, Water Courses, Etc.—Control.

SEC. 267. Every city and town, except when otherwise provided by law, shall, have exclusive power over the streets, alleys, water courses, sewers, drains, bridges and public grounds within such city or town; and may prescribe the hight, width and manner of construction of all bridges, lay out surveys, extend and open streets and alleys, and straighten, widen and otherwise alter and improve those already laid out, or that may hereafter be laid out, and make repairs therein and thereto, and may construct and establish sidewalks and street crossings. Such city or town may

also drain or fill up ponds or low grounds, straighten and deepen streams, and establish the lines and limits of the banks thereof; and may provide for the improvement of such banks, and establish the lines and limits of the banks and shores of ponds and lakes and provide for the improvement thereof, and for the drainage or filling up thereof; and may also provide for the construction of all sewers and drains, and laying down of all pipes, and the erection of poles and wires in such city or town; and may provide for the assessment of the cost of any such improvement upon the property thereby benefited, or for the payment of such cost out of the general treasury of such city or town. Such city or town may also cause buildings, structures or other things in the way of any street, sewer or other public improvement to be taken down, removed and appropriated, upon the payment of damages, as provided by law; and may enter upon, sieze, appropriate and condemn for streets, alleys, sewers, drains, parks, cemeteries, or other public purposes, all lands, easements and rights of way therein, including land, easements and rights of way of any person, company or corporation owning, controlling or having an interest in any steam railroad, electric or other street railway, or any other property, whether used for private or public purposes, and whether such lands, easements, rights of way or other public or private property be occupied by any person, company or corporation or not, upon payment of damages for the property so taken, as provided in this act in relation to the appropriation of lands by cities and towns for the opening, changing and improvement of streets and alleys, water courses, sewers, drains and public grounds. For the purpose of appropriating such lands and other property and making such improvements, such city or town shall have jurisdiction for ten miles beyond the corporate limits. Every city and town through its proper officers may perform all the duties and exercise all the powers of township trustees and road supervisors in reference to road labor tax of two days by persons liable to work on roads in townships, and shall be governed by the same rules and regulations in reference to the collection and enforcement of the same; or any person so liable to work may be discharged therefrom on the payment of one dollar and fifty cents per day: *Provided*, That the common council or board of trustees may, by general ordinance, prescribe the time within which such labor shall be performed. No person residing in any city or town shall be required to work on any road without such city or town.

Cleaning of Streets, Alleys and Public Grounds.

SEC. 268. Every city and town is authorized to provide by ordinance for keeping streets, alleys, and public grounds therein in a clean and sanitary condition, and to pay the costs of such

work, either out of the general fund of the city or town, or by assessing the same against the property benefited, according to the benefits thereto, as the costs of other public improvements are assessed, and causing such assessments to be placed upon the tax duplicate and collected as other assessments are collected. Such work may be done by contract; or it may be ordered done by the street commissioner or other proper officer, as hereinbefore provided, with or without first advertising for bids.

Obstruction of Streets and Public Places.

SEC. 269. Every city and town shall have exclusive power, by ordinance, to control and care for its streets, alleys and other public places, and to prevent the obstruction or incumbrance of any such street, alley or other public place, so as to impede the free use of the same for its proper purposes, and to prevent any person from going upon any sidewalk with any vehicle or animal, except in the necessary act of crossing.

Authority or Power—How Made Effectual.

SEC. 270. Wherever there is a grant of authority or power conferred by any section or sections of this act upon any officer or board of any city or town, and no method is provided herein for the exercise of such authority or power, and a method for the exercise of such authority or power is necessary to be provided by law to make such grant of authority or power effectual, and a method for the exercise of such or similar authority or power is provided by any other section or sections of this act, or by any other law of this state applicable to the exercise of the authority so granted, then such other section or sections, or other law, so far as the same provide a method for the exercise of such authority or power herein conferred, may be followed as fully as if incorporated in and made a part of the provisions of this act granting such authority or power. And wherever there is a grant of authority or power conferred by this act, and no method is provided by this act or by any other general law, as herein referred to, for the exercise of such authority or power, the common council of any city or the board of trustees of any town may, by ordinance, provide such method.

Service of Process.

SEC. 271. In case of suit against any city, service of process may be had upon the mayor, and in his absence, upon the city clerk; and in case of suit against any town, process may be had upon the president of the board of trustees, and in his absence, upon the town clerk.

Repeal.

SEC. 272. All former laws within the purview of this act except laws not inconsistent herewith and enacted at the present session of the general assembly, are hereby repealed; but this repeal shall not affect any right acquired, franchise granted, or contract entered into, under any such former law, nor shall it affect any pending litigation or proceedings thereunder, but the same shall be concluded and judgment rendered and enforced as if this act had never been passed.

CHAPTER 130.

AN ACT concerning acquisition, ownership, alienation by deed, devise or otherwise, and transmission of real estate by aliens, matters connected therewith, repealing all conflicting laws, and declaring an emergency.

[S. 194. APPROVED MARCH 6, 1905.]

Aliens—Holding Real Estate.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That natural persons who are aliens, whether they reside in the United States or any foreign country, subject to the provisions hereinafter contained, may acquire by purchase, devise or descent, and may hold and enjoy real estate, and may convey, devise, transmit, mortgage or otherwise encumber the same in like manner and with the same effect as citizens of this state or the United States. The title of any real estate heretofore inherited, mortgaged, conveyed or devised shall not be questioned, nor in any manner affected, by reason of the alienage of any person, from or through whom, mediately or immediately, such title is claimed or derived.

Lands—Escheat to State.

SEC. 2. If any alien shall hereafter in any manner, acquire land in this state in excess of three hundred and twenty (320) acres, he shall, within five (5) years from acquiring such excess, or from arriving at the age of twenty-one years, if a minor, unless he shall have become a citizen of the United States, convey all lands acquired by him in this state, except that if he dies within said period without having conveyed, nothing herein shall prevent his heirs or devisees from inheriting or taking by devise from or through him such unconveyed lands, subject to all the provisions of this act. If any alien shall acquire such excess above three hundred and twenty (320) acres and such excess shall remain unconveyed at the end of five years after the acquisition thereof, then such excess shall escheat to the State of Indiana,

and it shall be the duty of the attorney-general to file an information in the circuit or superior court of the county in which said land is situated, alleging the ground upon which recovery is claimed, making all persons interested parties thereto, and the attorney-general shall, at the time of filing such information, file in the office of the clerk of said court a notice containing the title of the court, the names of all the parties, if known, and if not known, then by the designation of "unknown heirs," as is provided in suits to quiet title, to such suit, a description of said real estate and a statement of the nature of such action, and said notice shall be by the clerk recorded in lis pendens record as of the date and hour of filing, and said land and all of the land owned by said alien and described in said information and notice shall, upon hearing and judgment, upon such information, escheat to the state: *Provided*, Any person, firm or corporation, who, prior to the filing of such information and notice, in good faith and for a valuable consideration shall have, or except for the alienage of the person or persons, from or through whom, mediately or immediately, claim is made, would have acquired, either by deed, mortgage, contract, legal proceeding or otherwise, any right, title, interest or lien to, in or upon said lands, or any part thereof, shall not be prejudiced nor affected by the alienage of any such person or persons, and every such right, title, interests or lien shall be in all respects as valid as if the alienage of such person or persons did not exist, and may be set up by the owner or owners thereof and shall be fully protected in any proceeding for the recovery or to enforce the escheat of said lands in favor of the state.

Repeal.

SEC. 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed: *Provided, however*, Nothing contained in this act shall affect in any manner the title to any real estate heretofore recovered or conveyed, by or under the authority of the state as escheated lands, or pending litigation involving the escheat of lands to the state or the title of the state to any lands to which it has heretofore claimed, asserted or attempted to assert title by an action in any court of this state.

Emergency.

SEC. 4. An emergency is hereby declared to exist for the immediate taking effect of this act, and, therefore, it shall take effect and be in force from and after its passage.

Chapter 131.

AN ACT amending sections 3, 4, 8, 13, 15, 16, 17, 20, 23, 26, 40, 49, 56, 57, 65, 67, 82 and 105 of an act entitled "An act for the reorganization of the Indiana militia, prescribing regulations and penalties for violations thereof, providing for the election and appointment of officers, defining the rights and duties of civil and military officers, and penalties for neglect or violations thereof, providing for armories, courts-martial, councils of administration, boards of survey, military encampments, and the calling of the militia into active service, making annual appropriations for the support of the militia and other expenses, repealing all laws heretofore enacted on that subject in conflict with the provisions of this act and declaring an emergency for the immediate taking effect thereof, approved March 5th, 1895, and amending sections 3, 4, 6, 7 and 8 of an act entitled 'An act amending sections 6, 7, 10, 11, 14, 18, 19 and 32 of an act entitled 'An act for the reorganization of the Indiana militia, prescribing regulations and penalties for violations thereof, providing for the election and appointment of officers, defining the rights and duties of civil and military officers, and penalties for neglect or violations thereof, providing for armories, courts-martial, councils of administration, boards of survey, military encampments, and the calling of the militia into active service, making annual appropriations for the support of the militia and other expenses, repealing all laws heretofore enacted on that subject in conflict with the provisions of this act, and declaring an emergency for the immediate taking effect thereof, approved March 5, 1895, and providing for the payment of officers and soldiers, and declaring an emergency,' approved March 12, 1901," and declaring an emergency.

[S. 249. Approved March 6, 1905.]

Active Militia.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That section three (3) of the above entitled act, approved March 5, 1895, be amended to read as follows: The active militia shall consist of such able-bodied male citizens between the ages of eighteen (18) and forty-five (45) years, as may be enrolled, organized and mustered into the service of the state, as hereinafter provided. The organized force shall contain not more than forty-eight (48) companies of infantry, four (4) batteries of artillery, four (4) troops of cavalry, four (4) companies of engineers, a signal corps, a hospital corps, including ambulance company, and such persons as may be enlisted or commissioned therein, and one (1) band to each regiment of infantry, together with a major general, an adjutant general's department, an inspector general's department, a judge-advocate general's department, an ordnance department, a quartermaster's department, a subsistence department, and a medical department, each such department to be composed of the requisite number of officers to meet the require-

ments of the organized strength, and whenever the organized strength of the national guard shall in the judgment of the governor warrant his so doing he may appoint not to exceed two (2) brigadier generals (exclusive of the adjutant general and the quartermaster general). The military organization of the national guard shall constitute a division, and the present regiments, battalions, batteries, companies, and corps shall remain as now established, but the governor shall have power to alter, divide, annex, consolidate, disband or reorganize the same and create new organizations whenever the efficiency of the state forces will be thereby increased, and he shall at any time have power to change the organization of regiments, battalions, squadrons, troops, batteries, companies, signal corps, hospital corps and engineer corps so as to conform to any organization, system of drill, or instruction now or hereafter adopted for the army of the United States, and for that purpose the number of officers and noncommissioned officers of any grade, in regiments, battalions, squadrons, troops, batteries, companies, signal corps and hospital corps may be increased to the extent made necessary by the new positions thus created: *Provided*, That in case of an emergency caused by invasion, insurrection, or other great public danger, the governor may, by proclamation, temporarily increase the organized force to a number sufficient to repel the invasion, suppress the insurrection, or otherwise provide for the public defense.

Exempt from Jury Duty.

SEC. 2. That section four (4) of the above entitled act approved March 5, 1895, be amended to read as follows: Every officer and enlisted man of the active militia shall be exempt from service on any jury in any court of this state and from payment of any poll and road tax; and in case of an officer, his commission, and of an enlisted man, a certificate of his commanding officer, shall be sufficient evidence that he is so exempt, and any citizen who shall have performed duty in any military organization of the national guard of the state, for a period of six (6) years, and has been honorably discharged, shall be exempt from serving as a juror in any court of the state.

Governor's Powers—Uniforms.

SEC. 3. That section eight (8) of the above entitled act approved March 5, 1895, be amended to read as follows: The governor shall have the authority, by general order, to provide for the disbursement of the military fund, for the proper organization of the militia, and the promotion of its discipline, instruction and military efficiency, to prescribe a uniform for the same, to appoint boards of examination, inquiry and survey, to provide

for the collection of any fine, penalty or forfeiture due from any officer or member of the national guard out of any payment to be made such officer or member by the state, and to fix an allowance not exceeding ten dollars ($10.00) per year, to be paid for uniforms for each enlisted man of the active militia, or renovation or repair of same: *Provided,* That to each commissioned officer shall be issued one dress and one service uniform and overcoat with the proper insignia of rank, which uniform shall be the property of the state. All uniforms for the use of the militia shall be made from the material furnished or prescribed by the state, and in the uniform pattern and style adopted as the uniform of the Indiana national guard, which same shall conform both for officers and enlisted men to the uniform of the United States army modified as may be necessary in the case of officers in regard to collar and cap device to designate state service.

Battalions.

SEC. 4. That section thirteen (13) of the above entitled act, approved March 5, 1895, be amended to read as follows: Four companies shall constitute a battalion, three battalions shall constitute a regiment, and the entire organization of the national guard shall be under the command of a major general appointed by the governor, but the above organization directed for the national guard may be modified by the governor, according to the convenience and necessities of the service.

Officers—Appointments by Governor.

SEC. 5. That section fifteen (15) of the above entitled act, approved March 5, 1895, be amended to read as follows: The governor shall appoint one (1) adjutant general, and one (1) quartermaster general, each with the rank of brigadier general, who shall both be a part of the active militia. And he may at his pleasure appoint one (1) military secretary, with the rank of colonel, and aides-de-camp with the rank of colonel, lieutenant-colonel or major, not exceeding eight (8) of each grade, these officers to be honorary members of the national guard as the personal staff of the governor, to hold office during his pleasure, and their commissions shall expire with the term of office of the governor appointing them.

Major General—Staff Officers.

SEC. 6. That section sixteen (16) of the above entitled act, approved March 5, 1895, be amended to read as follows: A major general to command the national guard, shall be appointed and commissioned by the governor for a term of four (4) years, and there shall be appointed by the governor, upon the recommenda-

tion of such major general, a staff consisting of one (1) assistant adjutant general, one (1) inspector and one (1) surgeon, each with the rank of lieutenant colonel; one (1) judge advocate, one (1) quartermaster, one (1) commissary of subsistence, one (1) engineer and one (1) signal officer, each with the rank of major; two (2) inspectors of small-arms practice and ordnance officer, one of the grade of major, one of the grade of captain; and three (3) aides-de-camp, each with the grade of captain. The major general commanding may appoint and warrant a noncommissioned staff consisting of one (1) sergeant major, senior grade mounted, one (1) post quartermaster sergeant, one (1) post commissary sergeant, two (2) trumpeters, one (1) color sergeant and four (4) sergeant clerks. The staff of a brigadier general commanding shall consist of one (1) adjutant general, one (1) quartermaster, and one (1) commissary of subsistence, each with the grade of captain; one (1) major surgeon and two (2) aides-de-camp, of the grade of first lieutenant, to be selected from the commissioned officers of the national guard, and appointed and commissioned by the governor upon recommendation of the respective commanding generals, subject to finding of an examining board. The brigade noncommissioned staff shall consist of one (1) sergeant major, senior grade, one (1) quartermaster sergeant, one (1) commissary sergeant, one (1) color sergeant, two (2) trumpeters and two (2) sergeant clerks.

Colonels and Majors.

SEC. 7. That section seventeen (17) of the above entitled act, approved March 5, 1895, be amended to read as follows: A colonel and lieutenant colonel shall be appointed by the governor for each regiment, and a major for each battalion, who shall each be commissioned for four (4) years, such appointments to be by promotion, according to lineal seniority, subject to finding of an examining board.

Officers' Commissions—Qualifications.

SEC. 8. That section twenty (20) of the above entitled act approved March 5, 1895, be amended to read as follows: All officers shall be commissioned by the governor, who is, ex officio, the commander-in-chief, and no person shall be commissioned in the national guard of this state, unless he be a citizen of the state, of eighteen (18) years of age, or upwards. No commission shall be issued to any officer in the national guard, except to general officers, the staffs of the commander-in-chief, major general and brigadier general, until the officer appointed shall have passed a satisfactory examination before a board as to his knowledge of military affairs proportionate to the office to be held, his general

knowledge, and his fitness for the service. No person shall be eligible for appointment to the office of major general to command the national guard, or as a brigadier general to command a brigade, unless he has served ten (10) years as a commissioned officer in the national guard, or army of the United States. No person shall be eligible for appointment as an officer in the major general's or brigadier general's staffs, until he has served for five (5) years in the national guard or army, excepting medical officers, who shall be graduates of some incorporated school of medicine and of at least two (2) years' practice; the judge advocate, who shall be a counsellor-at-law of at least five (5) years' standing; the engineer officer, who shall be a graduate of some incorporated school of engineering, and of at least two (2) years' practice; the signal officer, who shall be a practical electrician or telegraph operator of not less than three (3) years' practice. All commissioned appointments on the major general's and brigadier general's staffs, shall be recommended by the respective commanders. All noncommissioned appointments on the staff shall be made by the respective general commanding. At least two (2) years' service in the national guard or army shall be requisite for appointment of all noncommissioned staff officers.

Major General—Powers.

SEC. 9. That section twenty-three (23) of the above entitled act approved March 5, 1895, be amended to read as follows: The major general commanding shall have power to authorize enlistments, make discharges and transfers of enlisted men, assign and transfer officers and organizations, appoint mustering officers for the recruiting of companies, or muster-in of new organizations after same have been duly authorized, order general courts-martial and inspections, appoint boards of survey and examination, and courts of inquiry, and issue such orders for the instruction and discipline of the national guard as may in his judgment be deemed necessary to promote the efficiency of the organization, and shall exercise the same authority over the national guard as a territorial division commander in the United States army exercises over the troops in his division.

Requisition for Arms.

SEC. 10. That section twenty-six (26) of the above entitled act approved March 5, 1895, be amended to read as follows: The commanding officer of every company of the national guard shall make a requisition on the quartermaster general for such supply of arms and equipments as may be necessary for his company.

Musicians.

SEC. 11. That section forty (40) of the above entitled act approved March 5, 1895, be amended to read as follows: There may be raised for each regiment, by the voluntary engagement of such persons, a band composed of not more than twenty-eight (28) musicians, which shall be under the command of the regimental adjutant; each band to be composed as follows: one (1) chief musician, one (1) principal musician, one (1) drum major, four (4) sergeants, eight (8) corporals, one (1) cook, and twelve (12) privates.

Company Defined.

SEC. 12. That section forty-nine (49) of the above entitled act, approved March 5, 1895, be amended to read as follows: Whenever the word company is used in a military sense in this act, it shall be understood and construed to mean a company of infantry, engineers, hospital, ambulance or signal corps, battery of artillery, troop of cavalry or regimental band.

Compensation of Militia.

SEC. 13. That section fifty-six (56) of the above entitled act, approved March 5, 1895, be amended to read as follows: Whenever any portion of the national guard, or all of it, shall be called into the service of the state by the governor in time of war, invasion, insurrection or other public danger, each private shall be entitled to one dollar and fifty cents ($1.50) per day and subsistence, each corporal to one dollar and seventy-five cents ($1.75) per day and subsistence, each sergeant and sergeant major to two dollars ($2.00) per day and subsistence, and each officer shall be entitled to pay at the same rates in every respect as the corresponding grades may at the time be entitled to in the United States army, and subsistence. And whenever such services have been rendered, the auditor of the state shall draw his warrant on the state treasury in favor of the governor in payment for the services rendered in accordance with the foregoing provisions of this section, and the treasurer of the state shall pay the same out of any funds not otherwise appropriated. When any part of, or all of the national guard of this state shall be ordered by the governor or with his approval, into camp for instruction or to participate in field exercises, practice marches or maneuvers in this state or elsewhere, including all occasions on which the troops are paid regular army pay by the United States government, enlisted men shall be entitled to the same pay per diem, and subsistence, from the state, as is fixed for enlisted men for each day passed in practice on the rifle range, viz., each private, artificer, wagoner, cook and company musician, one dollar ($1.00) per day; corporals, one dollar and five

cents ($1.05); sergeants, one dollar and ten cents ($1.10); first sergeants, quartermaster sergeants, commissary sergeants and sergeants major, one dollar and fifteen cents ($1.15), all in addition to any pay received from the United States: *Provided,* That no such encampment or tour of duty shall continue longer than ten (10) days, or be held oftener than twice a year. When any part or all of the national guard shall be ordered by the governor, or with his approval, to participate in official military ceremonies, such as escorts, parades and funerals, each enlisted man shall be entitled to one dollar ($1.00) per day and subsistence, and every commissioned officer to two dollars ($2.00) per day and subsistence, and this same rate of pay shall apply when officers and enlisted men attend courts-martial, as members or officers of the court, or witnesses respectively; such amounts to be due and payable out of the military fund upon warrant of the adjutant general approved by the governor.

Encampments.

SEC. 14. That section fifty-seven (57) of the above entitled act, approved March 5, 1895, be amended to read as follows: The major general commanding may order encampments, practice marches, field exercises or maneuvers of any part or all of the national guard, not to exceed ten (10) days in any year, when approved by the governor.

Molesting or Interfering—Penalties.

SEC. 15. That section sixty-five (65) of the above entitled act approved March 5, 1895, be amended to read as follows: Whoever shall unlawfully molest, insult or abuse any officer or enlisted man of the national guard, while in the performance of his military duty, shall be deemed guilty of a misdemeanor and on conviction thereof, shall be fined in any sum not to exceed five hundred dollars ($500.00), or imprisoned in the county jail for not more than six (6) months, or both, and it shall be lawful for any officer of the militia on duty therewith, to arrest or cause the arrest of any person so offending, and detain such person in custody until his arrest can be procured by civil authority. A person, who, either by himself or with another, willfully deprives a member of the national guard of his employment, or prevents his being employed by himself or another, or obstructs or annoys said member of said national guard or his employer, in respect of his trade, business or employment, because said member of said national guard is such member, or dissuades any person from enlistment in the said national guard by threat of injury to him in case he shall so enlist, in respect of his employment, trade or business, shall be deemed guilty of a misdemeanor, and on convic-

tion thereof, shall be fined in any sum not to exceed five hundred dollars ($500.00). No association or corporation, constituted or organized for the purpose of promoting the success of the trade, employment, or business of the members thereof, shall by any constitution, rule, by-law, resolution, vote, or regulation, discriminate against any member of the national guard of the state of Indiana, because of such membership in respect of the eligibility of such member of the said national guard to membership in such association or corporation, or in respect to his rights to retain said last mentioned membership; it being the purpose of this section to protect a member of the said national guard from disadvantage in his means of livelihood and liberty therein, but not to give him any preference or advantage on account of his membership of said national guard. A person who aids in enforcing any such provisions against a member of the said national guard with the intent to discriminate against him because of such membership, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not exceeding one thousand dollars ($1,000.00).

Retired List—Privileges.

SEC. 16. That section sixty-seven (67) of the above entitled act, approved March 5, 1895, be amended to read as follows: All commissioned officers who may have heretofore or shall hereafter serve in the Indiana national guard for a period of five (5) years, or who shall become permanently disabled to perform their duties, irrespective of length of service, may, upon their honorable retirement from the service, whether by resignation or otherwise, be carried upon a roll to be established and maintained in the office of the adjutant general, which roll shall be designated "The Indiana national guard retired list," and shall be entitled to wear, on occasion of ceremony, the uniform of the highest rank which they have held. The officers so carried on said roll may be eligible for detail or appointment on the general staff, or the staff of any commander, when not physically disqualified for military duty, but when so appointed shall be recommissioned as of the rank to which they have been appointed, which rank they shall hold during the time of such appointment, unless promoted therefrom, and in case of a second retirement from active service, they shall be entered on said roll as of their highest rank. No officer whose name shall appear on said retired list shall be entitled to receive any pay or emolument whatever, from the state, during the time he so remains on said list, unless specifically assigned to duty in orders from the governor or major general commanding, and in case he be reappointed or recommissioned therefrom, he shall only be entitled to the pay and allowance provided by law for officers of the rank named in his last commission.

Judge Advocate—Records—Witnesses—Fee.

SEC. 17. That section eighty-two (82) of the above entitled act approved March 5, 1895, be amended to read as follows: It shall be the duty of every judge advocate to keep a faithful record of the proceedings of his court; to enter thereon the order appointing the court, the names of the members present, the response of the accused when asked if he objects to any member of the court, a copy of the charges and specifications against the accused, and his plea to each specification and charge, a synopsis of the evidence of each witness for the prosecution and defense, and finally, the findings and sentence of the court in full, which proceedings shall be signed by the president and attested by the judge advocate, and transmitted, without delay, by the latter to the officer ordering the court. The judge advocate of every court-martial shall have the same power to summon all the witnesses required either for the prosecution or the defense, as by existing laws the clerks of the circuit courts in the state have; and any person so summoned and failing to attend shall be dealt with as for contempt under existing laws. Judge advocate, members and officers of general courts-martial, shall receive two dollars ($2.00) per day and subsistence, for each day in actual attendance at such courts, and transportation, and for each day actually spent in preparation for trial before such courts, and in making up the record thereof. Military witnesses shall receive pay at the rate of two dollars ($2.00) per day for officers and one dollar ($1.00) per day for enlisted men. Civilian witnesses summoned by the judge advocate shall receive the same compensation for their attendance before courts-martial as is allowed by existing laws for their attendance upon civil courts of the state, said payments to be made out of the military fund of the state, upon warrant of the adjutant general, approved by the governor.

Dismissal of Officers.

SEC. 18. That section one hundred and five (105) of the above entitled act, approved March 5, 1895, be amended to read as follows: No commissioned officer shall be dismissed from the service except by the sentence of a legally constituted court-martial, rendered after a fair trial, and approved in the manner prescribed in the portion of this act organizing courts-martial: *Provided,* That no provision herein shall in any way apply to the revoking of commission by the governor upon the finding of an examining board; or for negligence of duty; loss of interest; dilatoriness in making required returns and reports; failure to comply with instructions or frequent unauthorized absence from meetings of command as provided in existing regulations.

Companies—Organization—Engineers.

SEC. 19. That section three (3) of the above entitled act, approved March 12, 1901, be amended to read as follows: A company of infantry shall consist of one (1) captain, one (1) first lieutenant and one (1) second lieutenant, to be elected primarily by the company; six (6) sergeants and eight (8) corporals, to be appointed by the regimental commander upon the recommendation of the captain (the first sergeant and the quartermaster sergeant to be named by the captain from among the six sergeants so appointed), two (2) cooks, one (1) artificer, two (2) musicians, and not less than forty (40) and not more than eighty-seven (87) privates, one of whom may be appointed company clerk by the captain. The second lieutenant shall be elected by the company, and commissioned subject to the findings of an examining board: The company officers shall be promoted by seniority as vacancies may occur within their own company, subject to finding of examining board. A company of engineers shall consist of one (1) captain, one (1) first lieutenant, one (1) second lieutenant, ten (10) sergeants, ten (10) corporals, two (2) musicians and not more than sixty-four (64) privates of first class, and sixty-four (64) privates, second class: The minimum strength not to be less than fifty-three (53) enlisted men. The officers to be appointed and commissioned by the governor, upon the recommendation of the commanding general, subject to the findings of an examining board. The non-commissioned officers shall be appointed and warranted by the battalion commander in case of such being commissioned, and in absence thereof, by the commanding general.

Batteries—Cavalry—Signal and Hospital Corps.

SEC. 20. That section four (4) of the above entitled act, approved March 12, 1901, be amended to read as follows: A battery of field artillery shall consist of one (1) captain, two (2) first lieutenants and one (1) second lieutenant, to be elected primarily by the battery, subject to the finding of an examining board; nine (9) sergeants and twelve (12) corporals, to be appointed by the battalion commander, upon recommendation of the captain (the first sergeant, quartermaster sergeant and stable sergeant to be named by the captain from among the nine sergeants so appointed), two (2) cooks, four (4) artificers, two (2) musicians, and not more than ninety-one (91) nor less than forty (40) privates, one of whom may be appointed company clerk by the captain. The two platoons constituting a battery of artillery, company of infantry, or engineers, or troop of cavalry, may, at the discretion of the governor, be located in different towns, and in such case, the officers and noncommissioned officers authorized

for a battery, company or troop, shall be as equitably distributed between the two platoons as may be possible. The battery officers shall be respectively elected, promoted and commissioned in same manner as provided in infantry companies. A troop of cavalry shall consist of one (1) captain, one (1) first lieutenant, and one (1) second lieutenant, to be elected primarily by the troop; eight (8) sergeants and eight (8) corporals, to be appointed by the squadron commander, upon the recommendation of the captain (the first sergeant, and quartermaster sergeant to be named by the captain from among the eight sergeants so appointed), two (2) cooks, two (2) farriers and blacksmiths, one (1) saddler, one (1) wagoner, two (2) trumpeters and not more than seventy-six (76) nor less than twenty-seven (27) privates. The troop officers shall be respectively elected, promoted and commissioned in same manner as provided in infantry companies. A company of signal corps shall consist of one (1) captain, one (1) first lieutenant and one (1) second lieutenant, five (5) first class sergeants, ten (10) sergeants, ten (10) corporals, thirty (30) first class and twenty (20) second class privates; the minimum strength of the company shall be thirty (30) enlisted men. The company may be divided into squads of suitable size, to be stationed at places designated by the commanding general. At least two-thirds of the officers and men shall be expert telegraphers and electricians. The officers shall be appointed and commissioned by the governor, upon recommendation of the commanding general, subject to the finding of an examining board. The hospital corps shall consist of one (1) ambulance company, one (1) field hospital, and of sergeants first class, sergeants, corporals and privates of the hospital corps, who are members of regiments, separate battalions and squadrons. The governor shall be authorized to increase the number of enlisted men in the hospital corps so as to provide for medical attendance in batteries, separate troops and companies, and such additional men shall be consider[ed] a part of the hospital corps. The ambulance company shall consist of one (1) major surgeon commanding, one (1) captain assistant surgeon, one (1) first lieutenant assistant surgeon, four (4) sergeants first class, nine (9) sergeants, one (1) musician, thirty (30) privates first class and seventeen (17) privates. With the transportation one (1) captain quartermaster in charge of transportation, one (1) sergeant first class, one (1) sergeant, one (1) blacksmith, one (1) saddler, one (1) cook, two (2) musicians, two (2) supernumeraries and thirteen (13) drivers. Total enlisted eighty-three (83). Transportation shall be nine (9) ambulances, one (1) medical supply wagon, three (3) army wagons. The field hospital shall consist of: For field hospital work, one (1) major surgeon commanding, one (1) captain assistant surgeon,

one (1) first lieutenant assistant surgeon, one (1) sergeant first class, three (3) sergeants, twenty (20) privates first class, ten (10) privates, two (2) cooks, two (2) assistant cooks, one (1) dispensary assistant. With the transportation, one (1) captain quartermaster, two (2) sergeants, ten (10) drivers, one (1) artificer, two (2) supernumeraries. Total enlisted fifty-five (55). Transportation shall be eight (8) army wagons. All officers of the hospital corps shall be appointed, promoted and commissioned by the governor upon recommendation of the commanding general, subject to the finding of the examining board. The non-commissioned officers of the hospital corps shall be appointed and warranted by the commanding general upon recommendation of the chief medical officer.

Regimental Staff.

SEC. 21. That section six (6) of the above entitled act, approved March 12, 1901, be amended to read as follows: The regimental staff shall consist of a surgeon, with the rank of a major, two (2) assistant surgeons, with the rank of captain, and an assistant surgeon with the rank of first lieutenant, an adjutant, a quartermaster, and a commissary, each with the rank of captain, and one (1) chaplain, to be commissioned by the governor. The battalion staff shall consist of an adjutant, with the rank of first lieutenant, and a quartermaster and commissary with the rank of second lieutenant, to be commissioned by the governor. The artillery of the state shall be organized as an artillery battalion, under the command of a major, and the artillery battalion staff shall consist of an assistant surgeon, with the rank of first lieutenant, an adjutant, and a quartermaster and commissary, and an ordnance officer, each with the rank of first lieutenant, and a veterinary surgeon and a reconnaissance and signal officer, each of grade of second lieutenant, to be commissioned by the governor: *Provided*, That after battalions and regiments of any and all arms have been organized, all officers, field, staff and line, shall be promoted by seniority as vacancies may occur in their respective corps or departments, subject to the finding of an examining board as to their qualifications and fitness. The cavalry of the state, when two or more troops shall have been duly mustered in, may be organized into a squadron under command of a major with a staff consisting of one (1) squadron adjutant of rank of first lieutenant, one (1) squadron quartermaster and commissary of rank of second lieutenant, one (1) captain assistant surgeon, one (1) veterinary surgeon of rank of second lieutenant, and a non-commissioned staff of one (1) squardon sergeant major, one (1) sergeant of the hospital corps, two (2) privates first class, and one (1) private of the hospital

corps. The squadron officers to be appointed and commissioned by the governor, lineal seniority to govern as in the case of infantry battalions, and subject to the finding of an examining board. The engineer companies, when two or more of same have been mustered in, may be organized into a battalion, officered as provided for in the case of infantry.

Regimental Non-Commissioned Staff.

SEC. 22. That section seven (7) of the above entitled act, approved March 12, 1901, be amended to read as follows: The regimental non-commissioned staff shall consist of a sergeant major senior grade, a quartermaster sergeant, a commissary sergeant and two (2) color sergeants, who shall be appointed by the colonel, and one (1) sergeant first class, three (3) sergeants and six (6) privates first class and three (3) privates of the hospital corps. The battalion non-commissioned staff shall consist of a sergeant major junior grade, to be appointed by the colonel upon recommendation of the battalion commander. The artillery battalion non-commissioned staff shall consist of a sergeant major junior grade, a quartermaster and commissary sergeant, to be appointed by the battalion commander, and one (1) sergeant, two (2) privates first class, and one (1) private of the hospital corps.

Aides-de-Camps.

SEC. 23. That section eight (8) of the above entitled act, approved March 12, 1901, be amended to read as follows: The commissions of the aides-de-camp shall expire upon the same date as the commission of their chief, notwithstanding the time named in their respective commissions may not have elapsed: *Provided,* That such aides-de-camp be not reassigned by competent authority to new duties, or carried as supernumerary officers of their respective grades.

Emergency.

SEC. 24. An emergency is hereby declared to exist for the immediate taking effect of this act, and the same shall be in force from and after its passage.

Chapter 132.

AN ACT to fix and regulate the compensation of county assessors of the several counties of the state, repealing all laws in conflict therewith and declaring an emergency.

[H. 193. Approved March 6, 1905.]

County Assessor—Salary.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That the county assessors of the various counties of the state shall be entitled to receive for their services, including their services as president of the county board of reviews, the compensation specified in this act and no more; which compensation is graded in proportion to the population and the necessary services required in each of said several counties, to wit: In all counties having a population of less than 10,000 inhabitants according to the last preceding United States census, the salary of the county assessor shall be $500 per annum. In all counties having a population of 10,000 and less than 15,000 inhabitants according to the last preceding United States census, the salary of the county assessor shall be $600 per annum. In all counties having a population of 15,000 and less than 20,000 inhabitants according to the last preceding United States census, the salary of the county assessor shall be $700 per annum. In all counties having a population of 20,000 and less than 25,000 inhabitants according to the last preceding United States census, the salary of the county assessor shall be $850 per annum. In all counties having a population of 25,000 and less than 30,000 inhabitants according to the last preceding United States census, the salary of the county assessor shall be $950 per annum. In all counties having a population of 30,000 and less than 35,000 inhabitants according to the last preceding United States census, the salary of the county assessor shall be $1,000 per annum. In all counties having a population of 35,000 and less than 100,000 inhabitants according to the last preceding United States census, the salary of the county assessor shall be $1,200 per annum. In all counties having a population of 100,000 and over according to the last preceding United States census, the salary of the county assessor shall be $1,900 per annum. And all such salaries shall be paid quarterly on the first day of April, July, October and December.

Chapter 133.

AN ACT concerning taxation, and providing for the foreclosure of liens for delinquent taxes under specified conditions.

[H. 232. Approved March 6, 1905.]

Taxation—Delinquency—Foreclosure of Liens.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That the county treasurer between the first day of December and the thirty-first day of December, each year, shall make out a list of all of the lands and town and city lots which have been offered for sale for three years successively, upon which no person shall have bid therefor a sum equal to the delinquent taxes thereon, interest and penalty provided by law. In such list he shall give the names of the persons to whom said lands or lots are assessed for taxation, if known, or if unknown, as they appear upon the tax duplicate; the aggregate amount of the taxes, penalty, interest and costs due thereon, and a description of the lands or lots upon which the said taxes are assessed. Such description shall be sufficient if made in the manner that lands may be assessed for taxes. If he finds the description on the tax duplicate of the delinquent lands imperfect, he shall cause the same to be corrected and amended at any time by the county auditor. The county auditor shall certify under his hand and seal of office that such a list is a true, correct and complete list of the lands and lots in the county remaining unsold for taxation, and the same shall be delivered by the treasurer to the prosecuting attorney of said county with an order to him to proceed to enforce the lien of the State of Indiana for such taxes, penalty, interest and costs upon said lands or lots. It shall be the duty of the prosecuting attorney to thereupon immediately bring an action in the circuit court of the county in which such lands or lots are situated, in the name of the State of Indiana on the relation of the prosecuting attorney, against the owners of said lands, making parties thereto all persons who claim to have any interest in said lands or lots, or who appear by the public records of the county to have judgment liens, mortgage liens, or other liens of record upon said lands or lots, requiring them to assert said liens or claims in said suit. Before bringing such action, he shall ascertain, if the same can be done, the names and residences of the owners of such lands or lots, and shall make them parties to said suit. Whenever it shall appear that there are any taxes due upon any of said lands or lots in favor of any city or town, the said city or town shall also be made a party defendant to said action and be required to set up their claim. In such case it shall be the duty of the city attorney, or attorney for such

town to appear to said action and set up the claim of said city or town for taxes, and he shall be allowed for his services therein a docket fee of five dollars, and ten per cent. of the amount recovered in addition thereto as a fee for his services, which shall be taxed as costs. Process shall be issued and served, and publication made in the case of non-resident defendants, and all the proceedings conducted in the same manner as ordinary civil suits to foreclose mortgages are conducted, and the judgment obtained upon the lien for such taxes, penalty, interest, costs and charges, shall have priority over all other liens upon said lands or lots; and next in order of priority shall be a judgment obtained for the taxes, penalty, interest and costs due for municipal purposes of the city or town in which such real estate is situated, and such liens shall in no wise be affected or destroyed by any sale or conveyance of such lands or lots, or by any misnomer upon the tax books or assessment books of the owner of such lands or lots.

Decree—Proceeds of Sale.

SEC. 2. The decree in such suit shall provide that the property be sold by the sheriff as other lands are sold on execution, at the courthouse door of the proper county, to the highest bidder, for cash. The judgment as to the lien for taxes, penalty, interest and costs, shall be without any relief whatever from valuation or appraisement laws, and without stay of execution. The proceeds of such sale shall be applied: First, to the payment of costs of the suit. Second, to the payment of the judgment for taxes, penalty and interest, payable to the county treasurer. Third, to the payment of the taxes, penalty and interest due and payable to the city or town, and the residue shall be apportioned in such manner as the court may direct, according to the rights of the parties to such action. In cases where there are no lien claims or conflicting claims of ownership, the court shall direct that the surplus, if any, shall be paid into the treasurer's office of the county, for the use of the owners of such lands and lots. A docket fee of ten dollars, and ten per cent. of the amount recovered by the relator, shall in each case be allowed to the prosecuting attorney in the foreclosure of any tax lien, and shall be entered and charged as costs on the judgment against such lands or lots when such judgment is obtained and collected as other costs.

Certified Records as Evidence.

SEC. 3. In such actions, and in all other actions relating to the same subject matter, and for the purpose of evidence or authentication, the records made by the county auditor or the county treasurer, the city comptroller and city treasurer, or the treasurer of any town respecting delinquent lots or lands, the manner of

advertising the sales thereof, the sales made of the same, the conveyances thereof executed, and all copies of such records, and also any other papers or documents or records required by the laws relating to taxation, to be made and duly certified to be such by the proper county or town officer, under his hand and seal of office, shall be received as prima facie evidence of the facts contained therein.

Joint Action.

SEC. 4. Where there are several parcels of land or lots belong-[ing] to the same person or persons, and which have been offered for sale for the nonpayment of taxes for three years successively, and upon which no person shall have bid therefor a sum equal to the delinquent taxes thereon, and interest and penalty provided by law, all of such lots and lands shall be included in one action.

CHAPTER 134.

AN ACT entitled an act in relation to notaries public and legalizing certain acts thereof, and declaring an emergency.

[H. 279. APPROVED MARCH 6, 1905.]

Notary Public—Acts Legalized.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That all acts of notaries public in this state who have acknowledged the execution of deeds of conveyances, mortgages and all other papers entitled by law to be recorded in the office of the recorder of any counties in this state, or who have acknowledged the execution of any instrument or paper entitled to be acknowledged before any notary public, whether entitled to record or not, and which acts of such notaries public would be valid except for the fact that such notaries public are or may have been officers, stockholders or employes in corporations which were parties to the instrument, the signature of which are so acknowledged by such notary public, be and the same are hereby legalized and declared valid. And that in all cases where any such deed, mortgage or other paper entitled to be acknowledged before a notary public has been admitted of record in any of the offices of the county recorders of the State of Indiana, which deed, mortgage or other papers were acknowledged before a notary public who was an officer, stockholder or employe in any corporation which was a party to such deed, mortgage or other instrument, is hereby legalized, and such deeds, mortgages and other instruments and records thereof are hereby declared valid for all purposes and of the same

force and effect that the same would have, had the notary public who acknowledged the same, been in no manner interested or employed in such corporation; and further, the acknowledgments of all deeds of conveyances, mortgages and all other instruments required by law to be recorded, taken and certified by any notary public within or without the State of Indiana, and admitted to record in the office of the recorder in any county in this state and the record of which fails to show whether such notary public attached his official seal to said acknowledgment, shall be deemed to have the official seal of the officer taking the acknowledgment attached, and are hereby legalized, and the records of such deeds, mortgages and other instruments is hereby declared to be effective in law to all intents and purposes; and further, all acts of notaries public done in good faith in their official capacity in the exercise of the function of this office, such as acknowledgments, jurats and certificates (after the expiration of their commissions), and all such acts performed in good faith while such notary public held any other lucrative office under the law and in all cases where the acts of such notary public done and performed in his official capacity as such notary public in good faith, are invalid from any cause, be and the same are hereby legalized and rendered valid: *Provided*, This act shall not apply to or affect any pending litigation.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.

CHAPTER 135.

AN ACT concerning proceedings and appeals in criminal cases.

[H. 298. APPROVED MARCH 6, 1905.]

Criminal Procedure—Misdemeanor—Appeal by State.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That hereafter, in all criminal cases of misdemeanor, touching the sufficiency of an affidavit, information or indictment, or touching any question of law occurring upon the trial, the state shall have the right to appeal to the supreme or appellate courts: *Provided*, Such appeal shall be taken within sixty days after the rendition of judgment.

Chapter 136.

AN ACT concerning the improvements of public streets and boulevards located upon the bank of any river or stream in cities having a population of not less than forty-three thousand (43,000) nor more than forty-nine thousand (49,000), according to the last preceding United States census, and declaring an emergency.

[S. 45. Approved March 6, 1905.]

Cities of 43,000 to 49,000—Street or Boulevard—Assessments.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That whenever the improvement of any public street or boulevard located upon and along the bank or margin of any river or stream in any city in this state having a population of not less than forty-three thousand (43,000) nor more than forty-nine thousand (49,000), according to the last preceding United States census, shall have been petitioned for by one or more persons owning property fronting upon such street or boulevard, the board of public works may order such work to be done; the law governing street improvement and collection of assessments therefor, in cities of such population, shall govern and be followed by the board of public works in all matters relating to improvements herein designated except as to the manner of making assessment for the payment of the same, which assessment shall be made as follows: In making an assessment for the payment of any such improvement as herein designated, the board of public works shall assess each piece of property beneficially affected by such improvement in proportion to the benefits received, including abutting property as well as property not situated on the line of such improvement, but in the opinion of the board of public works, beneficially affected by the construction of such improvements.

Repeal.

Sec. 2. All laws or parts of laws in conflict herewith are hereby repealed.

Emergency.

Sec. 3. An emergency exists, therefore this act shall be in force from and after its passage.

Chapter 137.

AN ACT concerning junk dealers, providing for the regulation and licensing of junk dealers, providing for the issuance of license and fixing license fees, prescribing the duty of certain officers and providing penalties.

[S. 70. Approved March 6, 1905.]

Junk Dealers—License.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall hereafter be unlawful for any person, firm or corporation to buy junk without having first obtained a junk dealer's license as hereinafter provided.

Purchase from Minor—Written Consent to Sell.

Sec. 2. It shall hereafter be unlawful for any person, firm or corporation to purchase junk, directly or indirectly, or to trade, barter or exchange for junk, from or with any person who is under the age of twenty-one years, without having first obtained the written consent of the parent or guardian of said minor to such sale: *Provided,* That where such minor has neither parent nor guardian the written statement of a responsible resident of the county to the effect that he has personal knowledge that the material to be sold is the property of said minor and that it is not stolen property, shall be sufficient compliance herewith.

License—Clerk Circuit Court—Fee.

Sec. 3. Any person, firm or corporation desiring to buy, trade for or otherwise collect or purchase junk in any county in this state shall apply to the clerk of the circuit court of said county for a junk dealer's license, stating in such application the name of the applicant, or, if a firm, the names of the members thereof, and the proposed place of business, and pay to said clerk the sum of one dollar, which said sum shall be accounted for as other fees, and said clerk shall thereupon issue to said applicant a license to buy junk, at the place named for one year, and said clerk shall keep a record of such licenses.

Register of Minors, Etc.

Sec. 4. It shall be the duty of every such person, firm or corporation to register, in a book kept for that exclusive purpose, the name, age and residence of every person under the age of twenty-one years from whom such material is purchased or acquired, together with the name of the parent or guardian, or, in event there is no parent or guardian, that of the responsible person certifying as provided in section 3 of this act, which book, together with the consent or certificates aforesaid, shall be subject to inspection

by any citizen of this state, who shall also have the right to copy any part or parts thereof.

Penalty.

SEC. 5. Any person, persons or corporations violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined any sum not more than five hundred dollars nor less than one dollar, to which, upon a second or other subsequent conviction, imprisonment in the county jail for any determinate period not exceeding ninety days may be added.

CHAPTER 138.

AN ACT to amend sections 5, 6 and 7 of an act entitled "An act providing for the sale of certain real estate and for the relocation of the institution for the education of the deaf and dumb; making an appropriation therefor, and declaring an emergency. Approved March 9, 1903," and declaring an emergency.

[S. 129. APPROVED MARCH 6, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 5 of the above entitled act be amended so as to read as follows:

Institution for Deaf and Dumb—Purchase of Land.

Section 5. The said commission, upon the sale of all or any part of said lands, shall procure and purchase not less than forty (40) acres of land, within fifteen (15) miles of the soldiers' monument in the city Indianapolis, and of sufficient size for the needs of said institution for the education of the deaf and dumb, as said commission shall determine to be for the best interests of said institution, and shall at once proceed to the construction of, and shall construct, suitable building upon such lands so to be purchased as will meet the wants and demands of said institution for the education of the deaf and dumb; and said institution shall be moved and move to such new locality. That said commission shall not pay more than four hundred ($400.00) dollars per acre for said land: *Provided,* That such institution may be located upon lands already owned by the state, if such commission shall so determine; and if any state lands, or lands belonging to the college fund, or to the school fund, be selected, then the auditor of state and the auditor of the county where said lands are located are hereby instructed and directed to convey to the State of Indiana for said institution for the education of the deaf and dumb, such lands, at the price at which they were bought in by such auditor of state, or said county auditor, respectively.

Expenditures—Limit.

SEC. 2. That section 6 of the above entitled act shall be amended to read as follows:

Section 6. The amount that said commission may expend in the purchase of such lands and the erection of such buildings for such relocation shall not exceed the sum of three hundred and fifteen thousand ($315,000) dollars. If the funds received from said sale of lands shall not be sufficient to purchase the necessary grounds and construct such necessary building, then such deficit shall be paid for out of the state treasury, out of the fund appropriated in section 3 of this act; and if there shall be a surplus arising from the sale of any of the lands of said institution, over and above that which may be necessary to the purchase of said lands and the building of such institution and relocation thereof, then such surplus shall be a trust fund reserved for the use, benefit and behoof of said institution.

Appropriation.

SEC. 3. That section 7 of the above entitled act be amended to read as follows:

Section 7. All money received by said commission as the purchase price of any of the said lands, sold or to be sold under this act, shall be immediately paid into the state treasury, to be held by the state treasurer for the use of said institution; and all of said money so paid into said treasury, or that may hereafter be paid into said treasury, necessary for the purchase of lands and the erection of buildings and relocation of said institution, as herein provided, is hereby appropriated for the use of said institution, to be immediately available, and to be paid out upon warrants, at such times as said commission may require in performing its duties under this act. In addition to the appropriation above made, there is appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of one hundred and fifty thousand ($150,000) dollars, to be available on and after November 1, 1905; said sum so appropriated to be used by said commission as an advancement by the state, or to make up any deficit between the amount received from the sale of the lands herein provided for and the cost of the lands to be purchased and the erection and equipment of buildings on the same, herein provided for; said funds to be paid out on warrants of the auditor of state, issued on vouchers approved by the governor: *Provided,* That no warrant shall be drawn upon the fund last above appropriated when there is at that time in the treasury money derived from the said sale of said lands sufficient to pay such warrant.

Emergency.

SEC. 3. [4] Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

CHAPTER 139.

AN ACT to amend an act entitled "An act to amend an act entitled 'An act to amend section one (1) of an act entitled "An act to amend the first section of an act for the incorporation of manufacturing and mining companies," etc., which became a law by lapse of time December 27, 1872, approved March 9, 1875, and to legalize the incorporation of certain companies organized and existing under said act,' approved March 3, 1903, and to legalize the incorporation of certain companies organized and existing under said act, and declaring an emergency."

[S. 157. APPROVED MARCH 6, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That an act entitled "An act to amend an act entitled 'An act to amend section one (1) of an act entitled "An act to amend the first section of an act for the incorporation of manufacturing and mining companies," etc., which became a law by lapse of time December 27, 1872, approved March 9, 1875, and to legalize the incorporation of certain companies organized and existing under said act,' approved March 3, 1903," be and the same is amended to read as follows, to wit:

Corporations—Manufacturing and Mining—Incorporation.

Section 1. Whenever three (3) or more persons may desire to form a company to carry on any of the following named purposes, to wit:

(a) Any kind of manufacturing, mining, mechanical or chemical business or to furnish motive power to conduct such business;

(b) To supply any city, town, village or community with water, light, heat or power;

(c) To own, construct, operate and maintain stockyards and transit companies and conduct and transact the business incident thereto;

(d) To own, construct, maintain and operate grain elevators or flour mills or both and transact the business incident thereto, including the manufacture of flour, meal and all grain and cereal products, and the buying and selling of grain and cereals of all kinds, and the manufactured products thereof, and also including the right to own and maintain motive power to conduct such business;

(e) To buy and sell any kind or kinds of merchandise in connection with the manufacture of such merchandise, and for the sale of such merchandise when manufactured. They shall make, sign and acknowledge before some officer capable of taking acknowledgments of deeds, a certificate in writing, which shall state the corporate name adopted by the company, the object or objects of its promotion, which may include any or all of the purposes included in any one of the above named subdivisions of this section, the amount of the capital stock, the term of its existence (not, however, to exceed fifty (50) years), the number of directors and the names of those who shall manage the affairs of such company for the first year, and the name of the city or town in which its principal place of business is to be located, and file the same in the office of the recorder of such county, where it shall be recorded, and a duplicate thereof in the office of the secretary of state;

(f) To buy, sell and lease lands and buildings and other structures thereon, and to erect dwellings and other buildings and structures on lands leased or purchased.

Legalizing Clause.

SEC. 2. The articles of incorporation of every company which has filed a certificate of incorporation under the terms and provisions of an act entitled "An act for the incorporation of manufacturing and mining companies and companies for mechanical, chemical and building purposes," approved May 20, 1852, or under any of the acts amendatory thereof or supplementary thereto, wherein the object of the company has been stated as embracing any or all of the purposes in any one of the above named subdivisions of the section one (1) of this act, are hereby legalized and validated and declared to be as effectual as if the original statute and all of its amendments had stated that companies might be formed thereunder for any or all of the purposes therein enumerated.

Litigation.

SEC. 3. This act shall not affect any pending litigation.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, the same is hereby declared to be in force from and after its passage.

CHAPTER 140.

AN ACT concerning the publication of public notices by auditors and treasurers of counties having a population of 150,000 or more according to the last preceding United States census, repealing all laws in conflict therewith, and declaring an emergency.

[S. 162. APPROVED MARCH 6, 1905.]

Counties of 150,000—Publication of Notices.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That in all cases wherein the auditors and treasurers of any counties in the state having a population of one hundred and fifty thousand (150,000) or more according to the last preceding United States census, are required by law to publish notices affecting county affairs or business of such county, including the publication of all notices for the sale of delinquent taxes, whether such real estate be situate within or without any city in such county, such notices shall be published in two leading daily newspapers representing the two political parties casting the highest number of votes in such county at the last preceding general election, and in event there should not be two daily newspapers in such county representing such two political parties, then such notices shall be published in a daily newspaper printed and published in such county representing one of such political parties, if there be such, and the other of said notices shall be published in some daily newspaper of general circulation, printed and published in such county, representing no political party, and if there should not be any daily newspaper representing any one of such political parties then such notices shall be published in two daily newspapers of general circulation, printed and published in such county representing no political party. The newspapers in which said notices shall be published shall be designated by the auditor or treasurer giving such notices.

Repeal.

SEC. 2. All laws and parts of laws within the purview of this act are hereby repealed.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 141.

AN ACT to provide for the election of school trustees in cities and incorporated towns, prescribing their terms of office and their powers and duties in relation thereto, and repealing all laws in conflict therewith.

[S. 166. APPROVED MARCH 6, 1905.]

School Trustees—Election—Terms—Duties.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the common council of each city and the board of trustees of each incorporated town of this state shall at a regular meeting of such common council or board of trustees, after the incorporation of such city or town elect three school trustees, who shall hold their offices one, two and three years, respectively, from and after the first day of the next succeeding August. The term of each of said trustees shall be determined by lot at the time of such election by such common council or board of trustees, and annually thereafter the common councils of each city and the board of trustees of each incorporated town, at their regular meetings in the month of June, shall elect one school trustee, who shall hold his office for three years from the first day of the next succeeding August. Such trustees shall constitute the school board of the city or town, and before entering upon the duties of their offices they shall take an oath faithfully to discharge the duties of the same. They shall meet within five days after the first day of August of each year and organize by electing one of their number president, one secretary and one treasurer. The treasurer, before entering upon the duties of his office, shall execute a bond to the acceptance of the county auditor, conditioned as an ordinary official bond, with at least two sufficient freehold sureties, who shall not be members of said board, in a sum not less than double the amount of money which may come into his hands within any one year by virtue of his office. The president and secretary shall each give bond, with like sureties, to be approved by the county auditor, in any sum not less than one-third of the treasurer's bond: *Provided,* That in case of a newly incorporated city or town such trustees shall meet within five days of their election and organize by electing the officers and giving the bonds as herein provided, which officers and bonds shall be continued until the first day of August next succeeding such organization. All vacancies that may occur in said board of school trustees shall be filled by the common council or board of trustees of the town, but such election to fill a vacancy shall only be for the unexpired term. The board of school trustees shall within five days after the first day of August of each year reorganize their boards and execute

their bonds for the ensuing year. Said trustees shall receive for their services such compensation as the common council of the city or the board of trustees of the town may deem just, which compensation shall be paid from the special school revenue of the city or town: *And, provided, further,* That the present incumbents of the offices of school trustees of any city or town shall hold their offices until the first day of August next succeeding the expiration of their terms: *Provided further,* That the provisions of this act relative to the appointment of school trustees shall not be mandatory upon those incorporated towns wherein the school corporations have been or shall hereafter be abandoned.

Cities Excepted.

SEC. 2. The provisions of this act shall not apply to cities of over fifty thousand inhabitants, according to the last preceding United States census.

Repeal.

SEC. 3. All laws and parts of laws in conflict herewith are hereby repealed.

CHAPTER 142.

AN ACT legalizing the acts of the Morocco cemetery association, of Morocco, Indiana, and the acts of the trustees and officers thereof, and declaring an emergency.

[S. 183. APPROVED MARCH 6, 1905.]

Legalizing Act—Morocco Cemetery Association.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all of the acts heretofore done in regard to the organization and management of the Morocco Cemetery Association, of Morocco, Indiana, and the election of officers thereof, are hereby in all things legalized: *Provided,* That nothing in this act shall affect any pending litigation.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in full force and effect from and after its passage.

CHAPTER 143.

AN ACT fixing the per diem of the commission appointed by the governor of the State of Indiana to codify the mining laws of the State of Indiana, under act of March 12, 1901, making appropriation therefor and declaring an emergency.

[S. 226. APPROVED MARCH 6, 1905.]

Mining Laws—Codification—Compensation.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the members of the commission appointed by the governor of the State of Indiana to codify the mining laws of the State of Indiana, under the act of March 12, 1901, be and they are each thereby [hereby] allowed the sum of five dollars ($5.00) per day and actual expenses for all time necessarily expended by each of them in the discharge of their duties as such commission.

Appropriation.

SEC. 2. Four hundred dollars ($400.00) are hereby appropriated for the purpose of meeting the per diem and paying the expenses of said commission, and should any portion of said sum remain unexpended for that purpose, it shall be covered back into the treasury of the state.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall, therefore, be in force from and after its passage.

CHAPTER 144.

AN ACT fixing the time for holding court in the forty-first judicial circuit of the State of Indiana, consisting of Marshall and Fulton counties, declaring an emergency, and repealing all laws in conflict therewith.

[S. 270. APPROVED MARCH 6, 1905.]

Forty-first Judicial Circuit—Terms—Time—Place.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That the terms of court in the forty-first judicial circuit shall be held in the county of Marshall on the third Monday of September; fourth Monday of November; second Monday of February; first Monday of May of each year. And in the county of Fulton on the fourth Monday of October; second Monday of January; fourth Monday of March and first Monday of June. The terms of court in the county of Marshall shall be as follows:

The term commencing third Monday in September, five weeks; the term commencing the fourth Monday in November, six weeks; the term commencing the second Monday in February, six weeks; the term commencing the first Monday in May, five weeks. The terms in the Fulton circuit court shall be five weeks each if the business thereof shall require it. This law shall take effect and be in force on and after the third Monday in September, 1905.

Chapter 145.

AN ACT defining delinquency in children, and providing for the punishment of any person responsible for, or in any way contributing to, the delinquency or other offenses of any child.

[S. 271. Approved March 6, 1905.]

Delinquent Child—Definition—Punishment.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That the words "delinquent child" shall include any boy under the full age of sixteen years and any girl under the full age of seventeen years who shall violate any law of this state or any ordinance of a city; or who is incorrigible; or who knowingly associates with thieves or other vicious or immoral persons; or who is growing up in idleness or crime; or who knowingly visits or patronizes any policy shop or place where any gaming device is or shall be operated; or who patronizes, visits or enters any saloon or wine room where intoxicating liquors are sold; or who knowingly patronizes, visits or enters any public pool room or bucket shop; or who wanders about the street of any city in the night time without being on any lawful business or occupation; or who wanders about in any railroad yards or upon railroad tracks; or who jumps upon any moving train or enters any car or engine without lawful authority; or who uses vile, obscene, vulgar, profane or indecent language; or who smokes cigarettes; or who loiters about any school building or school yard; or who is guilty of indecent or immoral conduct. Any boy under the full age of sixteen years or any girl under the full age of seventeen years who shall commit any of the acts herein specified shall be deemed a delinquent child and shall be proceeded against as such in the manner provided by law for the prosecution of persons charged with misdemeanors, and upon conviction thereof may be released on probation or may be dealt with by the court in such manner as may appear to be for the best interest of the child.

Encouraging Act of Delinquency—Penalty.

SEC. 2. It shall be unlawful for any person to cause or encourage any boy under the full age of sixteen years or any girl under the full age of seventeen years to commit any act of delinquency as defined and specified in section one (1) of this act, or for any purpose to send, or cause to be sent, any such child to any house of prostitution, or to any saloon or wine room where intoxicating liquor is sold, or to any policy shop or gambling place, or to any pool room or bucket shop, knowing them to be such; or to knowingly encourage, contribute to or in any way cause any such child to violate any law of this state or the ordinances of any city; or to knowingly permit, contribute to, encourage or cause any such child to be guilty of any vicious or immoral conduct; and any person so offending shall be guilty of a misdemeanor and shall be tried for such offense in any court of competent jurisdiction, and upon conviction thereof shall be punished by fine or imprisonment or both: *Provided, however,* That if at the hearing of any child brought before any juvenile court, it shall appear that any person has violated any of the provisions of this section, the judge of said court may have such person brought before him upon proper warrant, and, if upon preliminary examination, it shall appear that such person is probably guilty of the offense charged, he shall be recognized as recognizances are now provided by law, to appear at the next term of the criminal court of said county, or if there be no criminal court, then of the circuit court of said county.

Penalty for Violation.

SEC. 3. Any person who shall be convicted of violating any of the provisions of section two (2) of this act shall be fined in any sum not exceeding five hundred dollars ($500.00) or imprisoned in the county jail or workhouse for a period not exceeding six (6) months, or punished by both such fine and imprisonment. The court may impose conditions upon any person found guilty under this act, and so long as such person shall comply therewith to the satisfaction of the court the sentence imposed or any part thereof may be suspended: *Provided*, That no such sentence or the execution thereof shall be stayed or suspended to exceed a period of two years; and if, upon the expiration of such time, or any time prior thereto as the court may deem proper, it shall appear to the satisfaction of the court that such person has complied faithfully with the condition imposed, the court may suspend such judgment and sentence absolutely, in which case such person shall be released therefrom. If at any time during the suspension of such sentence it shall be made to appear to the satisfaction of the court that the

judgment ought to be enforced, the court shall have power to revoke the suspension of such judgment and stay of execution thereunder and may enforce the same, and in such case the term of such sentence shall commence from the date upon which the same is ordered to be enforced.

CHAPTER 146.

AN ACT legalizing the annexation of the territory to the city of East Chicago, Lake county, Indiana, and to legalize the election and the official acts of the common council and other officers of said city, and to legalize the acts of the board of county commissioners of Lake county, Indiana, incorporating said city and annexing territory to said city, and declaring an emergency.

[S. 277. APPROVED MARCH 6, 1905.]

Legalizing Act—East Chicago.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That the incorporation of the city of East Chicago, in the county of Lake, and State of Indiana, the election and qualifications of the common council and all other officers of said city, the acts of said common council in the annexation of territory to said city and all other official acts of said officers and the acts of the board of county commissioners of the county of Lake, and State of Indiana, incorporating said city and annexing territory to said city, be and the same are hereby legalized and made valid; but nothing in this act shall affect any territory now within or claimed to be within the corporate limits of the city of Hammond or the city of Whiting: *Provided,* Nothing in this act shall interfere with any pending litigation.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

Chapter 147.

AN ACT to authorize cities and towns to sell and dispose of municipal water works, gas works, electric light works, street car and other lines for the conveyance of passengers and freight and all other works for the manufacture, supplying or distribution of any public utility, repealing all laws inconsistent therewith.

[S. 301. Approved March 6, 1905.]

Cities and Towns—Sale of Public Utilities.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That any city or town in this state, having, owning or operating any water works, gas works, electric light works, street car or other lines for the conveyance of passengers and freight or other works for the manufacture, supplying or distribution of any public utility is hereby authorized and empowered to sell, transfer, convey and dispose of the same in the manner prescribed by this act.

Common Council—Provisions for Sale.

Sec. 2. The common council of any such city, and the board of trustees of any such town, by a two-thirds vote, are hereby authorized and empowered by ordinance or resolution to provide for such sale or disposition and to prescribe the manner of such sale, the price at which such property may be sold, the terms and conditions of such sale, and to designate the officer or officers who shall execute in behalf of such city or town the necessary and proper deed or other instrument conveying the title to any such works: *Provided,* That no city or town shall sell any of its property as mentioned in section one of this act, until the same has been appraised by three disinterested freeholders of the county in which said city or town is located, to be appointed by the judge of the circuit court of such county, none of whom shall be residents or taxpayers of such city or town. Such appraisers shall be first sworn to make a just and true valuation of such property, and shall return their appraisements, in writing, to the common council of such city or the board of trustees of such town, and no such property shall be sold for less than the full appraised value thereof, less the amount of any bonds, liens or other indebtedness due upon such property, all of which indebtedness shall be assumed and paid by the purchaser as part of the purchase price of such property.

Notice by Publication—Petition for Election.

Sec. 3. Every ordinance or resolution providing for such sale or disposition shall be published in a newspaper of general circulation in such city or town, stating in full all terms agreed upon by

the board of trustees of such town, or the common council of such city; and such sale shall not be closed or consummated for thirty days after such notice is given in such paper; and if, within thirty days, one hundred freeholders and resident taxpayers of such city or town present a petition to the common council or board of trustees to submit the question to the qualified voters of such city or town at a special or general election as to whether such sale shall be made, as provided in such ordinance or resolution, the board of trustees of such town or the common council of such city shall submit the question as to whether or not such sale shall be made to the qualified voters of such city or town. And in case a majority of all the votes cast at such election upon the question of such sale shall be against the sale, then the sale shall not be made; and in case the majority of votes cast at such election upon the question of such sale be for the sale, then such board of trustees or common council shall proceed to sell the same, as provided in such ordinance or resolution. If, after the expiration of thirty days after giving such notice, no such petition is filed, the board of trustees or common council of such city shall proceed to sell the same, as provided in such ordinance or resolution.

Notice of Election.

SEC. 4. The board of trustees of such town or common council of such city shall cause notice of elections held under this act to be given by publication in a newspaper, if there be one published in said town or city, for two successive weekly issues, before such election, and if there be no newspaper published in said town, then by written or printed notices posted in three or more public places in said town, at least fifteen (15) days before said election, and they shall cause copies of said ordinance to be printed in convenient form and shall furnish the same to the voters of said town, upon their application or order, and such notice of election provided in this section, shall designate where such copies may be obtained.

Ballots.

SEC. 5. All ballots for use in special elections in this act shall be prepared and furnished by the clerk of such town or city, and shall be in such form that the voters may express their approval or disapproval by yes or no. Where ordinances under this act are submitted to the voters at a regular election, they shall be placed upon the official ballots.

Proceeds of Sale.

SEC. 6. The proceeds of any such sale shall be paid into the general treasury of the city or town making the same and shall thereby be and become a part of the general funds of such city or town.

General Application.

SEC. 7. This act is intended to embrace and apply to every incorporated city and town in this state, whether same be governed by a special charter or by general laws.

Repeal.

SEC. 8. All laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

CHAPTER 148.

AN ACT entitled an act providing for the unpaid salary of Harry E. Bernetha, judge of the forty-first judicial circuit of the State of Indiana, and declaring an emergency.

[S. 316. APPROVED MARCH 6, 1905.]

Preamble.

WHEREAS, An act fixing the salaries of judges of the circuit and superior courts of this state, in certain cases, "in proportion to the population and necessary services required of each," and when the same shall be paid, was approved and in force March 2, 1899; and

WHEREAS, Harry E. Bernetha, judge of the forty-first judicial circuit of the State of Indiana, under said act, was entitled to the sum of five hundred ($500.00) dollars from November, 1902, to October 31st, 1903, and entitled to the sum of five hundred ($500.00) dollars from November 1st, 1903, to October 31st, 1904; and

WHEREAS, The said sum of money, namely: one thousand ($1,000.00) was never drawn by said Harry E. Bernetha, but has reverted back into the state treasury;

Therefore, For the purpose of making up the deficiency legally due the said Harry E. Bernetha, judge of the forty-first judicial circuit of the state of Indiana:

Appropriation—Harry E. Bernetha.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That there is hereby appropriated out of any funds not otherwise appropriated in the state treasury, the sum of one thousand dollars ($1,000.00) to Harry E. Bernetha, judge of the forty-first judicial circuit of the State of Indiana, for the purpose of paying the unpaid balance of salary due him.

Emergency.

SEC. 2. An emergency existing for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

CHAPTER 149.

AN ACT to amend section 8 of an act entitled "An act to provide for the incorporation of street railroad companies," approved June 4, 1861.

[S. 332. APPROVED MARCH 6, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 8 of the above entitled act be and the same is hereby amended to read as follows:

Street Railroads—Election of Directors.

Section 8. There shall be an annual meeting of the stockholders held at the office of such company for the election of directors to serve for the ensuing year: Not less than three nor more than fifteen directors shall be chosen at such meeting of stockholders by ballot, by a majority of the stockholders present in person or by proxy, and every such stockholder being so present shall be entitled to give one vote for every share of stock owned by him. No person shall be a director unless he shall be a stockholder, owning stock absolutely in his own right and qualified to vote for directors at the election at which he shall be chosen. If such company shall fail to elect directors at such annual meeting they may be elected at any special meeting called pursuant to the by-laws of said company, after ten days' notice of such election shall have been published in a newspaper of general circulation, printed and published in the city in which the principal office of such company is located.

CHAPTER 150.

AN ACT providing for the transfer of the surplus in the sinking fund to the general fund in the state treasury, and repealing laws in conflict.

[S. 357. APPROVED MARCH 6, 1905.]

State Sinking Fund—Transfer by Finance Board.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever it appears to the state finance board that there is a sum of money in the state treasury to the credit of the sinking fund, in excess of the amount necessary to be carried in such fund to meet the bonds of the state as they become payable, the said board shall transfer such excess to the general fund to be expended as other general funds of the state.

Repeal.

SEC. 2. All laws and parts of laws are hereby repealed in so far as they conflict herewith.

CHAPTER 151.

AN ACT to amend section four (4) of an act entitled "An act authorizing circuit courts to change the names of persons and corporations," approved January 21, 1852, and declaring an emergency.

[S. 359. APPROVED MARCH 6, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section four (4) of an act entitled "An act authorizing circuit courts to change the names of persons and corporations," approved January 21, 1852, be amended to read as follows:

Corporations—Change of Name.

Section 4. Proof of the publication required in this act shall be made by filing a copy of such published notice, verified by the affidavit of a disinterested person, and when such proof of such publication is made, the court shall proceed to herein determine said petition and make such order and decree therein as to such court shall seem just and reasonable. A certified copy of such order and decree, shall, within ten days after the entering of the same by said court, be filed with the secretary of state.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

CHAPTER 152.

AN ACT to preserve the fresh water lakes of the State of Indiana at their established level and protect them from danger of being injuriously affected or destroyed by the lowering of the water thereof and providing penalties for violation thereof and declaring an emergency.

[S. 361. APPROVED MARCH 6, 1905.]

Preamble.

WHEREAS, It is desirable to preserve the fresh water lakes of the State of Indiana at their established water level and to protect them from danger of being injuriously affected or destroyed by the lowering of the waters thereof by any drains or ditches.

Drainage—Fresh Water Lake—When Unlawful.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That it shall be unlawful for any person or persons, firm or corporation, to locate, dig, make, dredge, or in any manner construct, or for any court, or board of commissioners, or body

of viewers or drainage commissioners, to order or recommend the location, establishment or construction of any ditch or drain cutting into or through, or upon the line of any fresh water lake or lakes in the State of Indiana, or to locate, dig, make, dredge or in any way construct any ditch or drain, having a bottom depth lower than the present water line of such lake, within forty rods of any point on the line of such lake where the line or any portion thereof is known or ascertainable; or in case such line or any part thereof is lost and can not be ascertained, within forty rods from high water mark on the margin of such lake, such high water mark to be the highest point on such margin to which such water has arisen within the ten years last past.

Dam—Bank—Levee—Interference.

SEC. 2. That it shall be unlawful for any person or persons, firm or corporation, to cut into or around, or to attempt to cut into or around, or in any manner interfere with, or attempt to interfere with, change or destroy any dam, bank or levee already constructed, or which, under the laws of this state may hereafter be constructed for the purpose of maintaining the level of the waters of such lake at their established level, or to cut into or through, or attempt to cut into or through, or in any way interfere with, or attempt to interfere with the banks or shores of any such lake or any part thereof in such a way as to lower or tend to lower the waters of such lake.

Bank—Dam—Spillway, Etc.—Change or Alteration.

SEC. 3. That it shall be unlawful for any person or persons, firm or corporation to interfere with, change or alter, or attempt to interfere with, change or alter any bank, dam, spillway, outlet or outlets of such lake in such manner as to lower the existing level of such lake or lakes.

Penalties.

SEC. 4. Any person or persons, firm or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100), nor more than five hundred dollars ($500), or by imprisonment in the county jail for not less than thirty (30) days, nor more than one year, or by both fine and imprisonment, in the discretion of the court.

Drains Under Construction.

SEC. 5. All ditches or drains in the vicinity of such lakes, now ordered and in process of construction, shall be continued under and in accordance with the provisions of the existing law, as modi-

fied by this act, and the commissioners of drainage, appointed by the court, shall proceed with the construction of any such work, pay all the expenses of the same, including reasonable attorneys' fees, to be allowed by the court establishing the same.

Effect of Act.

SEC. 6. This act shall not supersede or affect any law passed at this sixty-fourth session of the general assembly.

Emergency.

SEC. 7. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

CHAPTER 153.

AN ACT to repeal section 4 of an act entitled "An act concerning the office of county surveyor in counties having a population of one hundred and fifty thousand or more according to the last preceding United States census, defining the duties and fixing the salary of such county surveyor, and declaring an emergency," approved March 11, 1901, and to amend section 1 of an act entitled "An act to amend section 5 of an act entitled 'An act concerning the office of county surveyor in counties having a population of one hundred and fifty thousand or more, according to the last preceding United States census, defining the duties and fixing the salary of such county surveyor, and declaring an emergency, approved March 11, 1901, and declaring an emergency," approved March 9, 1903, and declaring an emergency.

[H. 254. APPROVED MARCH 6, 1905.]

Repeal.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section four of the act entitled an act concerning the office of county surveyor in counties having a population of one hundred and fifty thousand or more according to the last preceding United States census, defining the duties and fixing the salary of such county surveyor, and declaring an emergency," approved March 11, 1901, be and the same is hereby repealed.

Amendment.

SEC. 2. That section 5 of the act entitled "An act to amend section 5 of an act entitled an act concerning the office of county surveyor in counties having a population of one hundred and fifty thousand or more, according to the last preceding United States census, defining the duties and fixing the salary of such county surveyor, and declaring an emergency, approved March 11, 1901, and declaring an emergency," approved March 9, 1903, be and the same is hereby amended to read as follows:

County Surveyor—Compensation Counties of 150,000 or More.

Section 5. The county surveyor of each county affected by this act shall receive for his services a sum equal to four per centum of the contract price of all bridges, bridge and turnpike repairs for which such surveyor shall prepare the plans and specifications, and of which he shall supervise the construction. Said surveyor shall pay out of said sum all deputies and other persons employed in the preparation of the plans and specifications and in the supervision of the construction of all bridges and in the repair of bridges and turnpikes. For all other services he shall receive the fees allowed by law.

Emergency.

SEC. 3. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in full force and effect from and after its passage.

CHAPTER 154.

AN ACT prohibiting the sale of any fruit tree or fruit trees of a certain kind, variety or description and the delivery thereafter with the intent to deceive to the purchaser of a fruit tree or fruit trees of a different kind, variety or description, and providing penalties for the violation thereof, and prescribing the time within which prosecutions under this act may be commenced.

[H. 315. APPROVED MARCH 6, 1905.]

Fruit Trees—Misrepresentation.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That it shall be unlawful for any person, persons, firm or corporation, acting either as principal or agent, to sell to any person, persons, firm or corporation any fruit tree or fruit trees representing same to be of a certain kind, variety and description and thereafter to deliver to such purchaser in filling such order and in completing such sale a fruit tree or fruit trees of a different kind, variety or description than the kind, variety or description of such fruit tree or fruit trees so ordered and sold.

Penalty.

SEC. 2. Any person violating any provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in any sum not less than fifty ($50.00) dollars nor more than five hundred ($500.00) dollars.

Prosecutions.

SEC. 3. Prosecutions under this act may be commenced at any time within five years from the time of the delivery of such fruit tree or fruit trees mentioned in section 1.

Chapter 155.

AN ACT to amend section 122 of an act entitled "An act fixing the compensation and prescribing the duties of certain state and county officers, fixing certain fees to be taxed in the offices and the salaries of officers therein named, providing for certain employes in certain public offices and fixing their compensation, defining certain duties and liabilities of officers and persons therein named, providing for the distribution of certain moneys, making certain appropriations, declaring certain violations of the provisions of this act to be a misdemeanor and prescribing penalties therefor, providing the time when the same shall take effect as to certain officers therein named, and repealing all conflicting laws." Approved March 11, 1895, acts 1895, page 319, being section 6528 Burns' Revised Statutes 1901.

[H. 332. Approved March 6, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That section 122 of the above entitled act be amended to read as follows:

County Sheriff—Taxing of Fees.

Section 122. The sheriffs of the various counties of this state shall, on behalf of their respective counties, tax and charge the fees provided by law on account of services performed by such officers; the fees and amounts so charged shall be designated "sheriff's costs," but they shall, in no sense, belong to or be the property of the sheriff, but shall belong to and be the property of the county, except that in the execution of all processes issued from any other county than that of his residence, the sheriff shall be entitled to charge and collect the same fees for like services in similar cases, and which shall be his own. They shall tax and charge the following amounts, to wit: For serving a writ in a criminal case and taking into custody, twenty-five cents.

For each mile necessarily traveled in going to serve process or notice and returning, ten cents. And where there is more than one person named in a warrant, summons, subpoena, execution, fee bill, or in any other process that the sheriff may have to serve in the discharge of his official duties, he shall charge on such process but one mileage from the county seat to where he finds the first person named in any such process, and but one mileage for every additional mile traveled by him in serving and returning such process where there is more than one party to be served.

For taking bail on execution, twenty-five cents.

For taking recognizance, twenty-five cents.

For returning writ, ten cents.

For summoning a jury of twelve men, with mileage as above, one dollar.

For summoning a special venire, for each juror served, with mileage as above, ten cents.

For executing a writ of possession (and mileage as above), fifty cents.

For every person committed to jail, to be paid by the county, twenty-five cents.

For discharging each prisoner from jail, to be paid by the county, twenty-five cents.

For holding an inquisition, and drawing it up in form and returning the same, fifty cents.

For removing a person to the state prison, reform school for boys, or reformatory for women and girls, four cents a mile for each mile necessarily traveled for each person in custody, the sheriff and attendants allowed by law who may actually accompany such sheriff; such sum to be paid out of the state treasury on certificate of the warden or officer receiving the prisoner and on the verified statement of such sheriff made and filed with the auditor of state, who shall draw his warrant therefor.

For removing a person to a hospital for the insane the same compensation paid for taking a person to the state prison and reformatories, to be paid in like manner out of the county treasury, the sheriff making his verified statement thereon with the certificate of the superintendent or receiving officer of such hospital to the county auditor, who shall draw his warrant therefor.

For every mile necessarily traveled in going to and returning from comparing the vote for, and giving certificate to joint senator or joint representative, three cents to be paid out of the county treasury of the county of said sheriff's residence, on the verified statement of such sheriff filed with the county auditor, who shall draw his warrant therefor.

For returning any person from any hospital for the insane when required by law the same compensation to be paid in the same manner as when taking a person to such hospital.

For serving each person named in any process and return, forty cents, and for each copy required, twenty-five cents.

Selling property on execution or decree, a commission of three per centum on the first three hundred dollars, and one and one-half per centum on any excess above that amount; but when the money is paid to him without sale, one-half of the above commission only shall be allowed and mileage as above.

Taking appraisement of real estate, twenty-five cents.

Taking inventory and appraisement of personal property, twenty-five cents.

Taking replevin bond, twenty-five cents.

Serving capias and satisfaciendum, twenty-five cents.

Levying on property and advertising same (with mileage as above), one dollar.

When no money is made no other fee or award shall be allowed on execution except for the expenses of keeping property, and expenses incurred in removing and storing property, and mileage as in other cases.

Making certificate of sale on execution or decree, one dollar.

Making deed, one dollar.

Calling and empaneling a jury, five cents.

Serving a writ of attachment where property is taken (with mileage as above), fifty cents.

For each day employed in making inventory and appraisement of property taken under a writ of attachment, two dollars.

Taking bond for return of attachment property, twenty-five cents.

For docketing each cause and names of witnesses on sheriff's docket (to be taxed to the losing party), ten cents.

For the actual number of miles traveled in going and returning to post up notices for the sale of any real or personal property (to be taxed and collected as other costs in the cause are taxed), for each mile so traveled as above, ten cents.

Sheriffs shall not be entitled to any fees for services performed by their bailiffs, when such bailiffs are receiving pay by the day from the county at the time such services are rendered. The sheriff shall appoint as many bailiffs at each term of the court as the business of the court and grand jury shall require, under the advice and consent of the judge of the court as to the number required. The pay of the court bailiffs shall be fixed by the court and shall not exceed, to be paid by the county, per day, two dollars.

In counties where there are criminal and superior courts, the judge of each court may appoint a bailiff, to be paid by the county, such bailiff's per diem to be paid by the county and not to exceed two dollars. The pay of riding bailiffs per day, to be paid by the county, shall be, two dollars and fifty cents.

The fees taxed on any process served by bailiffs, being paid by the county, shall be collected and paid into the county treasury, and shall belong to the county.

For boarding each person lawfully in his charge, per day, forty cents.

In criminal cases not provided for, the like fee for services in civil cases shall be allowed.

For collecting fee bills, except for his own fee, on the amounts collected, six per cent.

For taking a prisoner to another county on any warrant issued by the clerk, the same compensation as allowed for taking a

prisoner to the state prison, to be paid by the county requiring the service, to be allowed by the court.

For each commitment or discharge of a prisoner under the authority of any city or incorporated town, to be paid by such city or town, twenty cents.

For attending court, in person or by deputy, for each actual day's attendance, to be paid by the county, two dollars.

In all cases where the sheriff shall perform any service for the county required by law to be performed by him, and there is no provision for its payment, the board of county commissioners shall allow and pay such sheriff the same compensation as is allowed by law for similar services; but the sheriff shall make out an itemized statement of all such services performed for such county before such allowance is made; but such allowance shall not be made unless such statement shall be filed with the auditor ten days before the commissioners' court meets, and any taxpayer may resist the allowance of said account.

In counties where there are no jails or sheriff's residences, the board of county commissioners shall allow to such sheriff a reasonable amount for house rent and fuel.

CHAPTER 156.

AN ACT concerning admission of foreign casualty, surety and health companies, defining the duties of the auditor of state in connection therewith, and declaring an emergency.

[H. 426. APPROVED MARCH 6, 1905.]

Insurance—Casualty, Surety, Etc.—Agents—Requirements.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That it shall not be lawful for any agent or agents of any casualty, surety or health company incorporated under the laws of any other state or any government foreign to the United States, directly or indirectly, to solicit insurance by any person or persons, firm, partnership or corporation, or to take any risks, or transact any business of insurance or suretyship in this state without first procuring a license from the auditor of state authorizing him, or them, to transact such business of insurance or suretyship as agent for such company in this state; and before such license shall be issued there shall be filed with the auditor of state a copy of the act of incorporation of such company, if such copy has not already been filed, and a statement or blanks prepared by said auditor of state, under oath of two of the officers of the company making such statements, which statement shall show in

detail the assets and liabilities of such company, and such other information as the auditor of state may require and no accident and health or accident or health company shall transact any business of insurance in this state unless such company is possessed of at least one hundred thousand dollars invested in the stocks or bonds of some one or more of the states of the United States or of the United States or in bonds of some one or more of the counties, cities or towns of this state or some other state of the United States, at the current market value thereof at the date of admission of such company to do business in this state, or in first mortgage bonds or mortgages on real estate worth double the amount for which the same is mortgaged and free from any prior incumbrance. And no casualty company shall transact a general casualty business unless such company is possessed of at least two hundred thousand dollars invested in the stocks or bonds of some one or more of the states of the United States or of the United States, or in bonds of some one or more of the counties, cities or towns of this state, or some other state of the United States, at the current market value thereof at the date of admission of such company to do business in this state or in first mortgage bonds or mortgages on real estate worth double the amount for which the same is mortgaged and free from any prior incumbrance. And no surety company shall transact a surety business either singly or generally in connection with a casualty business unless such company is possessed of two hundred and fifty thousand [dollars] capital, and unless such capital to the extent of one hundred thousand dollars is invested in the stocks or bonds of some one or more of the states of the United States or of the United States, or in bonds of some one or more of the counties, cities, or towns of this state, or some other state of the United States, at the current market value thereof at the date of admission of such company to do business in this state, or in first mortgage bonds or mortgages on real estate worth double the amount for which the same is mortgaged and free from any prior incumbrance. And upon the filing of the foregoing statement and furnishing him with satisfactory evidence of such investment, and complying with the other laws of this state, concerning foreign insurance companies, or surety companies, it shall be the duty of the auditor of state to issue to the agent or agents of the company applying for the same, a license to transact the business of insurance for such company in this state.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force and effect from and after its passage.

CHAPTER 157.

AN ACT concerning drainage.

[H. 62. APPROVED MARCH 6, 1905.]

Drainage Commissioners—Appointment—County Surveyor.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That it shall be the duty of the board of commissioners of every county in this state at its first regular session in December after the taking effect of this act to appoint a drainage commissioner, who shall be a citizen and freeholder of the county, who shall serve for two years. Thereafter, at the regular session of the board in December every two years, a drainage commissioner shall be appointed, to serve for two years. Such drainage commissioner may be removed at any time by the board, and the board shall also, at any regular or special session, have power to fill any vacancy for the unexpired term. Every such drainage commissioner, before entering upon his duties, shall take and subscribe an oath of office, and shall give bond, payable to the State of Indiana, with surety, to the approval of the county auditor, in a penalty not less than three thousand dollars, conditioned for the faithful discharge of his duties. The auditor shall thereupon issue to him a certified copy of the order of his appointment. The county surveyor shall be ex officio a drainage commissioner, and shall be liable as such commissioner under his oath of office and bond as county surveyor. Such drainage commissioner shall receive as compensation for his services three dollars per day for the time during which he has been actively engaged; and the surveyor shall receive four dollars per day for the time actually engaged. They shall, with each of their reports, file an itemized claim for such services, which claim, when allowed, shall in the first instance be paid out of the county treasury on the order of the court for which sums so paid out the county shall be reimbursed as hereinafter provided.

Petition to Court—Contents—Bond.

SEC. 2. Whenever any owner or owners of land which would be benefited by drainage which can not be accomplished in the best or cheapest manner without affecting the lands of others shall desire such drainage, or whenever a township trustee shall desire to provide for the drainage of a public highway or of the grounds of a public school in the township, which drainage would affect the lands of others; or whenever the common council of any city or the board of trustees of any town shall find it necessary for the successful drainage of such city or town to construct any drains as an

inlet or outlet leading into or out of such city or town, which drain, inlet or outlet can not be constructed without affecting the lands of others, such owner or owners, township trustee, common council or board of trustees, as the case may be, may apply for such drainage by petition to the circuit or superior court of the county in which any of the lands of the petitioner or petitioners are situated, or, in the case of a township trustee, or a city or town, to the circuit or superior court of the county, in which such township, city or town is located. The petition shall describe, in tracts of forty acres, according to government surveys, or less tracts where they exist, and in Clark's grant and the French grant and all pre-emptions of Indian reservations, in such tracts as are owned, or shall describe by metes and bounds, the lands of the petitioners and all others which it is believed would be affected by the proposed drainage, and shall give the name or names of the owner or owners of each tract, if known, and, if not, shall so state; and shall also name any city or town or other public corporation which it is believed would be benefited by such drainage, or in which the drainage of a public street or highway or of the grounds of a public school would be benefited. If any of the lands to be benefited or damaged lie within the corporate limits of any city or town, the same shall be described by lots and the number thereof, when such lots are so numbered on the plat books in the office of the county recorder. If the right of way of any railroad, interurban, street car or other company is believed to be affected, it shall be sufficient to describe it as the right of way of such railroad or other company, naming it, through the sections, townships, and ranges over which it is located, giving the number of the same. Such petitions shall be sufficient to give the court jurisdiction over all lands described therein, and power to fix a lien thereon, if they are described as belonging to the persons who appear to be the owners, according to the last tax duplicate or record of transfers kept by the auditor of the county in which such lands are situated. The petition shall also state that, in the opinion of the petitioner or petitioners, the public health will be improved; or that one or more public highways in the county, or streets in a city or town therein, will be benefited by the proposed drainage; or that the proposed work will be of public utility; and it shall state, generally, the method by which it is believed such drainage can be accomplished in the cheapest and best manner, and the belief of the petitioner or petitioners that the cost, damages and expenses of such drainage will be less than the benefits which will result to the owners of the lands and other properties and easements, and to such lands, easements and other properties and to municipalities, likely to be benefited thereby. Such petition shall be verified by

the affidavit of one or more of the petitioners; at the time of filing the petition, the petitioner or petitioners shall also give bond, payable to the State of Indiana with surety to the approval of the court, conditioned for the payment of all expenses in the event the court shall not establish such proposed work of drainage.

Docketing—Notice—Hearing—Report—Procedure.

SEC. 3. When a petition for drainage is filed in the office of the clerk of the circuit or superior court, as provided in the last section, the petitioner or petitioners shall note thereon the date set for the hearing thereof, and shall give to each city or town or other public corporation named in the petition as likely to be benefited by such drainage and to the owner or occupant of each tract of land, easement or other property described in the petition, who is a resident of the county in which such tract, easement or other property is situated, and who is not himself a petitioner, notice of the filing of such petition. Such notice shall be written or printed, and shall set forth the route of the drain, levee or other improvement, as described in the petition, the fact of the filing and pendency of the petition and when the same will be heard. The notice may be served and return made by the sheriff as a summons is served and returned in civil action; or it may be served by the petitioner or petitioners, or any of them or by any person for them, by delivering a copy to the person to be notified, or by leaving such copy at his last and usual place of residence, and proof thereof made by the affidavit of the person making such service. The service of such notice upon the station agent of any railroad, interurban or other company in any county in which the right of way of such company will be affected by such drainage, will be sufficient notice to such railroad or other company; and in case there be no agent of such company in such county such company shall be notified in the same manner as non-resident land owners. Owners of land, easements and other property to be affected by such proposed drainage and who, at the time of filing the petition are not residents of the county or counties in which the lands so owned by them are situated, shall be notified of the filing, pendency and time of hearing of the petition by publication twice in each of the two leading weekly newspapers, printed and published in each county through or into which such proposed work will run, representing the two political parties casting the highest number of votes in such counties, respectively, at the last preceding election, if there shall be two such newspapers published in each of such counties, and if not, then in one newspaper in each such county; and by posting at the door of the court house of each of the counties in which such lands are situated written or printed notices similar in form and contents to those served on resident

land owners. Proof of publication and of the time and place of such posting shall be made by the affidavit of the person or persons making such service, or making such publication, or so posting such notices. If it appear to the court that notice has been given of the filing of such petition by service thereof upon resident landowners and upon non-residents by publication and posting thereof, as above provided, for thirty days before the day fixed for the hearing of the petition, the court shall consider such petition and hear any demurrer or written objection to the sufficiency of the petition offered by any person named in such petition, or by any other person who shall satisfy the court, by allegation and proof, as in civil actions, that he has an interest that will be affected by such drainage, and shall also hear any objection by any of such persons to any of the regular drainage commissioners acting in such matter. All questions in relation to such proceedings shall be tried as a civil action. There shall be no change of venue from the county. At any time before the work is declared established and referred to a superintendent for construction, as provided in the next section, a change of venue may be taken from the judge by the petitioners or any of them, and one by the remonstrants or any of them; but if a change of venue is taken from the judge by one or more petitioners no further change shall be granted to any petitioner, and if such change is taken by one or more remonstrants no further change shall be granted to any remonstrant. Any person appearing to petition, or notified thereof, as hereinbefore provided, shall thereafter be deemed to have notice of all steps taken in such proceeding. If the court find the petition defective, the same may be amended, and if not so amended, may be dismissed at the cost of the petitioner or petitioners. At the end of twenty days after the day set for hearing, if there be no objection filed to the petition, or if it be found insufficient, the court shall refer the same to the drainage commissioners provided for in section one of this act. Should the court find that any of such drainage commissioners should not act in such case it shall appoint a special commissioner to act in his place; and such special drainage commissioner shall qualify and give such bond as the court may require. The court shall appoint a competent engineer, to make the necessary surveys, who shall qualify, give bond and receive the same compensation for his services as the county surveyor for like work, not exceeding four dollars per day, and his assistants shall receive like compensation to that allowed to surveyor's assistants. Legible copies of all notes made by such engineer in the discharge of his duties shall be deposited by him in the office of the county surveyor on the completion of his work. *Provided*, If the county surveyor be a competent engineer such duties shall be performed

by the county surveyor. All objections to the petition or to any drainage commissioner not made before the reference of the petition to the drainage commissioners shall be deemed waived. In the order of reference the court shall fix a time and place for the meeting of the drainage commissioners, and a time when they shall file their preliminary report. The clerk shall deliver to the commissioners a certified copy of the petition and of such order and they shall meet accordingly. They shall make personal inspection of the land described in the petition and of all other lands likely to be affected by the proposed work, and shall make to the court a preliminary report, in which they shall show:

First. The source or head, general direction and outlet of the drain and of each arm and branch thereof, the average width and depth, what part is to be opened and what part is to be tiled, if any, and whether it is to be dug by shovel, dredge or otherwise.

Second. A description of all lands which will be affected by the proposed drainage, with the names and residence of the owners, if known, and if not, so stating; also the name of any city or town or other public corporation, or highway or street therein not named in the petition, which will be affected by such drainage.

Third. Whether such drainage is practicable and will be sufficient properly to drain the lands to be affected.

Fourth. Whether when accomplished the proposed drainage will improve the public health, benefit any public highway or grounds in the county or counties or any street or public grounds of a city or town therein, or be of public utility. Such report of the drainage commissioners shall in all subsequent proceedings be prima facie evidence of the facts therein stated. In case any lands not named in the petition and not owned by any person who has appeared to the petition, are named in the second item of such preliminary report, notice for twenty days of the filing of such report shall be given by the petitioner or petitioners to the owners of such lands, and proof of such notice made, as hereinbefore provided in case of notice to owner of lands described in the petition. Like notice shall be given to any city, town or other public corporation named in such second item of the preliminary report. Any petitioner, land owner or corporation named in the petition, or who has appeared thereto, shall have twenty days from the filing of such preliminary report within which to file any exceptions thereto; and any landowner not named in the petition and whose lands are not described therein, but who is named in such report and his lands therein described and any city, town or other corporation so brought in, shall have twenty days from the date of the service or posting of notice of such report within which to file such exceptions. If the court find in the negative as to the third or fourth item of the report, or if two-thirds of the land

owners affected, as shown by such preliminary report, shall within twenty days after the filing of said preliminary report remonstrate in writing against the construction of the proposed improvement, the petition shall be dismissed, and the court shall enter judgment against the petitioner or petitioners for all costs and expenses, including the per diem of the drainage commissioner and engineer, if any have been appointed. But if the court find affirmatively as to each of such items it shall refer the petition back to the drainage commissioners with directions to proceed with the work and make their final report, as provided in the next section. Such order and judgment of the court in dismissing the petition or in referring it back to the drainage commissioners for a final report and all prior rulings and orders of the court in relation to such drainage shall be conclusive unless an appeal be taken therefrom to the supreme court. Any person or corporation deeming himself or itself aggrieved by such judgment of dismissal or order of reference, or by any prior ruling or order of the court, may appeal therefrom by praying for such appeal at the time of the decision of the court upon the exception to the preliminary report, and by filing within thirty days thereafter an appeal bond to the approval of the court or the judge in vacation, a transcript of the record on such appeal, and all bills of exceptions shall be filed in the office of the clerk of the supreme court within ninety days after the filing of the appeal bond. All parties shall take notice of and be bound by such appeal, and all proceedings in the matter of such drainage shall be stayed until its determination.

Locating—Remonstrance—Trial—Order—Assessments.

SEC. 4. After the petition has been referred to the drainage commissioners, for the second time, with directions to proceed with the work and make their final report, as provided in the last section, the commissioners, in case there be no appeal or, in case the petition be sustained on such appeal, shall, with the engineer, if one has been appointed, as provided in the last section, proceed accordingly and determine definitely the best and cheapest method of drainage; the route, location and character of the proposed work, and fix the same by metes and bounds, courses, distances and description, grades and bench marks, including all necessary arms or branches, so as to provide for complete drainage of all the lands to be affected by the proposed work; divide the drain or ditch into sections, each not more than one hundred feet in length; compute and set out the number of cubic yards of excavation in each section; and assess the benefits or damages, as the case may be, to each separate tract of land to be affected and to easements held by the railroad and other corporations, as well as to cities, towns, or other public corporations; including any land, rights,

easements or water power injuriously affected and to make report to the court, under oath, as directed. The drainage commissioners, in locating the line or lines of work of drainage, may vary from the line described in the petition as they deem best, and may fix the beginning or outlet so as to secure the best results; they may run the line so as to avoid all injury possible to lands, easements or public grounds and so as to benefit public highways by using the earth excavated for road beds, or in any other way they deem best: *Provided*, That in no case shall they change or construct the work as to sacrifice the best interests of such work or drainage. They may determine that the method of drainage shall be by removing obstructions from a natural or artificial watercourse; or diverting such water course from its channel, by deepening, widening or changing the channel of such watercourse; by constructing an artificial channel, with or without arms or branches; by providing that such drain shall be open or tiled and covered, or partly open and partly tiled and dug by shovel, dredge or otherwise; by constructing levees or dykes; or by any or all of such methods combined: *Provided*, That such drain shall not be located so close to any lake covering ten acres or more of ground as to lower the water level of the lake, and shall at no point be nearer than forty rods to the high water mark of such lake, "Excepting only where such drains empty into such lakes." Upon the filing of such report, ten days, exclusive of the day of filing and of Sundays, shall be allowed to any person or corporation affected by such drainage, or whose lands are assessed for benefits or damages, to remonstrate against the report, which remonstrance shall be sworn to, and may be for any of the following causes:

First. That the report is not made according to law.

Second. That the location of the drain or the method of drainage is not according to law or is not such as will secure the best results.

Third. That the cost, damages and expenses of the proposed drainage will be more than the benefits to the owners of the lands likely to be benefited.

Fourth. By any person or corporation against whom, or against whose lands benefits are assessed, that the damages assessed, to any other person or corporation or to the lands of any other person or corporation, specifying the same, are too great.

Fifth. By any person or corporation against whom, or against whose lands, benefits are assessed that such person or corporation, or the lands of such persons or corporation, specifying the same, are assessed too much, as compared with other persons or corporations, or with the lands of other persons or corporations, specifying such other persons, corporations or lands.

Sixth. By any person or corporation against whom, or against whose lands, benefits are assessed, that other persons or corporations or the lands of other persons or corporations, specifying the same, are assessed too low, according to the benefits to be received by such other persons or corporations or their lands.

Seventh. By any persons or corporations against whom, or against whose lands, benefits are assessed, that such person or corporation, or the lands of such person or corporation, will not be affected, or will not be benefited to the extent of the assessment, by the proposed work, if accomplished.

Eighth. By any person or corporation in whose favor, or in the favor of whose lands, damages are assessed, that the damages assessed are inadequate; or by any person or corporation injured by such work, or whose lands or other property will be injured thereby, that no damages have been assessed therefor.

Ninth. By any person or corporation against whom, or against whose lands, benefits are assessed, that such person or corporation, or the lands of such person or corporation, will be damaged by the construction of the proposed work.

If, upon the hearing, it be decided that the first or second of the above named causes of remonstrance is true, the court may direct the drainage commissioners to amend and perfect their report, or may, in its discretion set aside the report and refer the matter again to the commissioners for a new report. In making such order for the amendment of the report or for a new report, the court shall fix the time and place for the meeting of the commissioners and when they shall report; and when such amended report or such new report is made and filed any person or corporation affected thereby, or whose lands are affected thereby, may remonstrate within the time and for the causes in this section hereinbefore provided. If it be decided that the third cause of remonstrance is true, the petition shall be dismissed and the court shall enter judgment against the petitioners, for all costs and expenses incurred from the time of the filing of the petition. If any remonstrance under the fourth, fifth, sixth, seventh, eighth or ninth cause of remonstrance shall be sustained, the court may modify and equalize the assessments as justice may require, by diminishing or increasing any assessments for benefits, or by giving or withholding increasing or diminishing damages. For the purpose of so ruling upon such causes of remonstrance, and so modifying the assessments, all persons or corporations who are reported as affected, or whose lands are reported as affected or who are named in the petition as affected, or who have appeared to the petition, shall be deemed to be in court for all purposes, by reason of such appearance or by virtue of the notice theretofore given them. If lands are described or persons or corporations are named in the

petition as affected by the proposed work, and the drainage commissioners have not reported such persons, corporations or lands as benefited or damaged, or have reported them as neither benefited nor damaged, the court may, if justice require, make assessments against or in favor of such persons, corporations or lands. The assessments of benefits and damages, as made by the drainage commissioners in the final report, and as changed, equalized and confirmed by the courts, shall stand and be adjudged valid. If there be no remonstrance, or if the finding and judgment of the court be against all the remonstrances; or if the finding be in favor of the third, fourth, fifth, sixth, seventh or eighth causes of remonstrances, and the court can and does equalize the assessments as hereinbefore provided, it shall make an order approving the assessments as made by the drainage commissioners, or as so modified and equalized by the court, and shall declare the proposed work established. The order of the court approving and confirming the assessments and declaring the proposed work of drainage established shall be final and conclusive, unless an appeal therefrom to the supreme court be taken and an appeal bond be filed within thirty days, the court shall assign for construction to the county surveyor, or any other competent person, who shall before entering upon his duties, take and subscribe an oath of office and give bond payable to the State of Indiana, in such sum as the court shall require, conditioned that he will honestly and faithfully perform his duties, and account for all moneys that may come into his hands as such superintendent of construction. Assessments for the benefits shall be liens upon the lands against which they are assessed from and after the date of the final approval of the assessment, except where lands are not described in the petition but are afterwards described in the report of the drainage commissioners, and as to such lands the assessments shall be liens from the date of the filing of the report of the commissioners describing such lands. Such assessments for benefits, as approved and confirmed by the court, shall be first and paramount liens on the lands against which they are assessed, as taxes are liens. The superintendent of construction shall, as soon as he has been directed to construct the work of drainage, make out a notice stating that the work has been established by the court, setting out also the several assessments to the several tracts of land, persons or corporations, as confirmed by the court, and cause such notice to be recorded in the office of the recorder of the county where the lands are situated. Whenever any assessment has been satisfied, as provided in section five of this act, it shall be the duty of the superintendent to enter satisfaction of the lien thereof on such record; and in case bonds are issued, as provided in section six, it shall be his duty to enter on the margin of such record the words "bonds issued," which entry

shall have the effect to transfer the record of the lien of any such assessments to the drainage duplicate in the office of the county treasurer. Should such superintendent fail to enter such satisfactions the court, by order duly entered, shall direct the clerk to make such entry of satisfaction in the recorder's office. Such superintendent shall be liable on his official bond to any person interested for such failure of duty.

Superintendent—Construction—Collecting Assessments.

SEC. 5. The superintendent of construction charged with the execution of the work, out of the funds collected from the assessments made and confirmed as provided in the last section shall pay all costs of drainage not otherwise adjudged, and all the expenses incident to the construction of the work, including the reasonable attorney's fees of the petitioner or petitioners in the preparation and presentation of the petition, the establishment of the work and other services rendered in such work of drainage, and shall also pay such other costs and expenses as the court shall deem proper, not, however, to include the costs of giving notice, which in all cases shall be paid by the petitioner or petitioners: *Provided, moreover*, That no claim for costs or expenses, except payments on the contract for constructing the work shall be paid until such claim is allowed by the court. All costs not taxable to the petitioner or petitioners, remonstrants or appellants, shall, in the first instance, be paid out of the county treasury, and shall be refunded to the county by the superintendent of construction out of the first moneys collected by him; next in order he shall pay all awards of damages caused by the drainage and thereafter he shall pay to the contractor such sums as shall from time to time become due under the terms of the contract, reserving, however, twenty per cent. thereof, which shall be due and payable only on the completion and approval of the work. For the purpose of raising funds for making such payments, the superintendent shall collect of the assessments of benefits reported by the drainage commissioners, and adjudged by the court, such sums as may be necessary therefor, not exceeding the whole amount of benefits assessed against any tracts, and require the same to be paid to him in installments not exceeding ten per cent. per month, at such times and at such places as he shall fix, after thirty days' notice thereof given by one publication in a newspaper of general circulation published in the county in which the lands are situated. The superintendent of construction shall, on demand of any person interested or proposing to bid on such work, furnish a statement of the computation of the number of cubic yards of excavation, or filling, as the case may be, in each station, as reported by the drainage commissioners; and shall, after giving notice for bids, by two publications,

once each week, for two successive weeks in a newspaper of general circulation published in each county where lands assessed as benefited are situated, the last of which publications shall be ten days before the day fixed for receiving such bids, proceed to let the work, by contract, to the lowest and best bidder or bidders. Such contractor shall give bond to the approval of the superintendent, for the performance of his contract, and that he will pay all damages caused by failure to do so, which may be recovered in any court of competent jurisdiction. Any person furnishing labor or material to such contractor or to any subcontractor, or furnishing board or lodging to the employes of such contractor or subcontractor, in the construction of such work, and failing to receive compensation therefor, shall have a right of action on such bond for the amount found due him. Should any person who has been awarded such contract fail or refuse to construct such work within the time or according to the specifications provided for in the contract, or should it be manifest, before the expiration of such time, that such person would not complete the work within the time limited or in the manner specified, the superintendent may annul the contract and let the work again to the lowest and best bidder, and after giving notice as provided on receiving the first bids. Such former bidder, so in default, shall not again become a bidder for such work, but he shall be allowed on his contract a fair price for the work which he has done up to the time of the annulment of his contract, less costs of readvertising and other costs occasioned by such default, and less also the excess, if any, of the cost of construction under the second contract above the amount of his contract, which amount to be paid him shall be determined by the court. The superintendent of construction shall collect the assessments hereinbefore provided for or such part thereof as may by him be deemed necessary, for the payment of the costs and expenses of the work. If any such assessments is not paid in the amount and at the time by him required, he shall make his certificate showing the amount of the assessment against any tract, and the default in its payment as required, and shall file the same with the auditor of the county in which said tract is situated; and thereupon the auditor shall place such amount, together with ten per cent. penalty for the default, upon the tax duplicate to be collected, as state and county taxes are collected at the next ensuing date for the semiannual payment of taxes. If such assessments and penalty are not then paid, an additional penalty of five per cent. shall be added, and the land shall be sold for such assessment, penalty and interest therein, at six per cent. from the date of last default to the date of sale, as lands are sold for the nonpayment of delinquent taxes, and redemption from such sale may be had in the same manner, during the same time and on the same terms

as provided by law for the redemption of lands sold for delinquent taxes. Any assessment made against any township, city or town, by reason of benefits to any highway, street or public grounds, or for other benefit to such corporation, shall be paid out of the general funds of such township, city or town, as the case may be; and the provisions of the next section as to the issue of drainage bonds shall have no application to assessments against such corporations.

Bonds—When and How Issued and Paid.

SEC. 6. In all cases where the contract price for the construction of any work or drainage, as provided for in this act, shall exceed the sum of five thousand dollars, drainage bonds may be issued to procure funds for the payment of the costs of such construction, provided the owners of two-thirds in acreage of the lands assessed for benefits shall within thirty days from the establishment of the work and approval of the assessments of benefits and damages file their written request therefor with the superintendent of construction. In such written request such land owners shall agree that in consideration of the right to pay his assessment in ten yearly installments he will not make any objection to any illegality or irregularity, if any, in the proceedings up to and including the letting of the contract and the issuing of such bonds and that he will pay such assessments with interest as the same become due. The filing of such requests and the issue of bonds, if any there should be, shall in no manner affect the collection of assessments from land owners and others assessed for benefits who have not filed requests for the issue of bonds, and as to them the collection of assessments provided for in the last section shall be made as if no bonds were issued; and bonds shall be issued to cover only so much of the cost of the work as is apportioned to the lands of those who have filed requests therefor, and shall be liens only on such lands and payable only out of the assessments made thereon. Such apportionment shall be made as follows: The superintendent of construction shall carefully ascertain the total original cost of the work of drainage, including all damages awarded to the owners of lands and all incidental expenses and shall apportion such total cost and expenses to the several tracts of land and parties assessed for benefits in proportion to the assessments for benefits not in any case exceeding such benefits. Thereupon the superintendent shall report all such facts to the court or the judge thereof in vacation, together with all such requests for bonds and waivers of irregularities by land owners, which report the court or judge shall examine, and, if found correct, shall approve, whereupon such report and requests and waivers, with such approval, shall be entered in full in the order

book of the court, and a certified copy of such entry shall be made by the clerk and delivered to the auditor of each county in which lands are located for which the owners have requested the issue of bonds, which certified copies shall be filed by such auditors and laid before their respective boards of commissioners at their next ensuing session. Each board of commissioners, at such ensuing monthly session after the filing of such transcript, shall direct the county auditor to prepare an assessment sheet or drainage duplicate showing the total amount of costs apportioned to all the parcels of land for which the owners request the issue of bonds, with proper columns for the payment of installments and interest. And such auditor shall assess ratably from year to year upon such lands a sum sufficient to pay such bonds and interest as they severally mature. The first of such assessments shall be due and payable at the semiannual payment of taxes next following the letting of the contract, and the remaining assessments on the same day each year thereafter for nine successive years, with interest at six per cent. per annum, payable semiannually, on all unpaid assessments. Such assessments and interest shall be collected by the county treasurer as state and county taxes are collected, and shall be subject to the same penalties in case of nonpayment when due; and all laws for the collection of delinquent taxes and for the sale of lands for taxes and redemption from such sale shall apply equally to the collection of such assessments. Any land owner desiring to relieve his lands of the lien of such costs of drainage may at any time pay the whole amount of unpaid installments with all interest to accrue thereon until the maturity of such bonds respectively. The treasurer shall receipt for any payment on such installments and mark such payment on the duplicate, as in the case of payment of taxes; and any such payment shall be a release of the lien of such cost and of the assessment for such drainage to the extent of such payment. As soon as such drainage duplicate is so prepared the board of county commissioners of each county shall issue the bonds of the county to the amount of the cost of drainage so placed upon the duplicate for collection in such county. The bonds shall be numbered consecutively and shall be in denomination of one hundred dollars or any multiple thereof, except that one bond may be for less than one hundred dollars. One-tenth of such bonds as near as may be, shall fall due and be payable on the first day of June or December, as the case may be, following the next succeeding semi-annual payment of taxes, and one-tenth of such bonds, as near as may be, shall fall due on the same day every year thereafter, for nine successive years. All such bonds shall bear interest from the date of letting the contract for such drainage until the bonds are paid, respectively, at six per cent. per annum, payable semiannually on the first day of June and the

first day of December each year. They shall show on their face for what purpose they are issued, and shall be payable out of collections made on such assessments and not otherwise. Upon the signing of such bonds by the county commissioners and attestation thereof by the county auditor they shall be turned over to the county treasurer, who shall receipt to the auditor therefor. Thereupon the treasurer shall give notice by publication once in a newspaper of general circulation published in the county and by posting a copy of such notice at the door of the court house, that at the office of such county treasurer, on and after the hour of ten o'clock a. m. on a day to be named not less than twenty days thereafter, the treasurer will proceed to sell such bonds at not less than their par value to the highest and best bidder for cash: *Provided, however,* That in lieu of selling such bonds, as herein provided, the county commissioners by order of record to that effect, may direct that the bonds shall be exchanged at par and held by the county treasurer for any unloaned school funds as other unused funds held in the county treasury; in which case the assessments and interest collected for the payment of such bonds shall be paid into and credited to the fund so used in their purchase. The proceeds of such bonds shall be drawn out of the county treasury only on the warrant of the auditor upon the certificate of the superintendent in payment of the cost of construction of such drainage and expenses incident thereto. In case the bonds sell at a premium the aggregate amount of such premium shall be apportioned pro rata to the several assessments for cost against the respective parcels of land, and the amount thus apportioned to each parcel shall operate as a payment to that extent of the first maturing installment.

Account—Report—Suits—Liens.

SEC. 7. The superintendent of construction of every work of drainage shall keep an account of all moneys collected and paid out by him in relation to such work, and shall take vouchers for all sums paid out. He shall also keep an account of the time occupied by him in the performance of his duties, and whenever he shall be engaged in two or more works on the same day he shall divide such day among such works in proportion to the time devoted to each. He shall, at least once in six months, make to the court under oath a full report of all matters relating to any such work; and the court shall allow him for his services three dollars per day for the time actually and necessarily employed by him therein. Such superintendent shall at all times be under the control and direction of the court; and for any failure to obey the orders of the court he shall forfeit all compensation due him and be dealt with summarily as for contempt, and may be removed by the court. Suit may also be brought upon his bond in the

name of the state for any failure of duty, and the amount recovered shall be applied in payment of the costs and expenses of the construction of the work. The court may at any time discharge the superintendent and appoint another in his place. All laborers and other persons who shall perform any service or furnish any materials in the construction of any work under the provisions of this act shall have a lien upon the fund raised for the construction of the same; and upon notice in writing, of the amount due and what the same is for, filed with the county treasurer, such treasurer shall withhold payment to the contractor on any warrant drawn in his favor, to any amount sufficient to satisfy such lien, until the same is adjusted; and in case of disagreement between the contractor and the person claiming such lien, as to the amount or validity thereof, the court, on motion of the superintendent, contractor or person claiming the lien, shall determine such matter. On failure to comply with the foregoing provisions the superintendent shall be liable on his bond for any sum improperly paid over to the contractor. Should any funds remain after the payment of the costs of the construction of the work of drainage and expenses connected therewith, the same shall be distributed, pro rata, according to the amount paid by the owners of the lands and the corporations assessed for such work.

How Act Construed—Supplemental Petition.

SEC. 8. This act shall be liberally construed to promote the drainage of wet or overflowed lands; and the collection of assessments shall not be defeated by reason of any defect in the proceeding occuring prior to the judgment of the court approving and confirming the assessment of benefits and damages and ordering the work established, provided only the court had jurisdiction, but, such judgment shall be conclusive that all prior proceedings were regular and according to law; nor shall any person, at any stage of the proceedings, be permitted to take advantage of any error, defect or informality which does not directly affect himself; and should the court deem it just to release any person of any liability, or to modify his assessment, such act of the court shall in no manner affect the rights or liabilities of any other person. Should it appear at any time that the assessment of benefits at any time is insufficient to complete the work, and pay expenses in connection therewith, the superintendent of construction may file his petition asking the court for an additional assessment. Five days' notice of the filing of such petition shall be given to every person or corporation assessed for such work, or to the attorney of record of such person or corporation, which notice shall be given and served in the same manner as the notice of the filing of the

original petition. On or before the expiration of such five days' notice any person interested may file any answer or objection to such petition. The court after the expiration of such time or after hearing the answer or objection, if one be filed and if satisfied of the necessity therefor, may make an additional assessment on all the lands originally assessed as benefited and in proportion to such original assessments and the same, or so much thereof as may be necessary, shall be first liens upon the lands against which they are assessed and shall be collected as hereinbefore provided in case of the original assessments. The superintendent of construction or any person interested in such work may also file with the court a supplemental petition showing that lands not assessed for benefits or damages are affected, as the petitioner believes, by such drainage, whether such lands are or are not described in the petition or in either report of the drainage commissioners. Notice of such supplemental petition shall be given as provided in case of the filing of the original petition. The court shall refer such supplemental petition to the drainage commissioners to report thereon; and all proceedings may be had thereon and orders and decrees made in relation thereto, including the construction of additional arms or branches as if it were an original petition; but the proceedings thereon shall not affect the original petition, unless the court for good cause shall order the petitions consolidated. Any such order, however, shall not hinder or delay the original work or drainage.

Petition to County Commissioners—Proceedings.

SEC. 9. When any proposed work of drainage and the lands, highways, easements, public grounds and cities, towns or townships to be affected thereby are wholly with one county the petitioner or petitioners for such drainage, instead of applying for the same to the circuit or superior court as provided in section two of this act, may apply therefor by petition to the board of commissioners of such county at any regular monthly session of such county board, and all provisions hereinbefore made as to such petitions, notice of the hearing thereof, demurrer, pleading or motion in relation thereto, hearing thereof, dismissal or amendment of the petition and references to the drainage commissioners appointment and duties of engineers, preliminary report of the drainage commissioners, remonstrance and exceptions thereto and action and ruling therein; reference again of the petition to the drainage commissioners for a final report, action on such final report, allowance and payment of claims, and all other matters in relation to such work, shall be had and conducted as far as applicable by and under direction of such board of county commissioners, as hereinbefore provided for the circuit or superior court when appli-

cation for such drainage is made to such circuit or superior court, except as provided in this section. Appeal from the action of the county board on the preliminary report of the drainage commissioners may be taken to the circuit or superior court of the county within the time and in the manner provided in section three of this act in case of appeal from the action of the circuit or superior court to the supreme court, and a like appeal, taken within like time and in like manner, may be had to the supreme court from the decision of the circuit or superior court on the appeal from the board. On the making of the final report of the drainage commissioners remonstrances may be made thereto and action had by the board thereon as provided in case of consideration of such final report by the circuit or superior court, when the petition is filed in such court; and from the decision of the board on such last report there may be an appeal as hereinbefore provided to the circuit or superior court. In any appeal the reports of the drainage commissioners shall be prima facie evidence of the facts stated in such reports, whether before the board of commissioners, in the circuit or superior court or in the supreme court. If the assessments are confirmed and the work of drainage established, the board shall refer the same to a superintendent of construction, who shall qualify, give bond and proceed to the collection of assessments and the construction of the work, as hereinbefore provided in sections five and seven of this act. The county auditor, in case of the filing of a petition for drainage before the county board, shall perform all the duties provided to be performed by the clerk of the circuit court when such petition is filed in the circuit court or superior court, and the board of commissioners, in case of the filing of such petition before the board is given all the powers and required to perform all the duties in regard to such work of drainage, so far as the same are applicable, that have hereinbefore been prescribed for the circuit or superior court save and except such board shall have no jurisdiction over any work of drainage where any part thereof or any lands to be affected thereby are situated in another county; and except also that such county board in case such work is done under the direction of the board, shall have no power to issue drainage bonds, as provided for in section six of this act, but in such case the collections on assessments shall be made and the costs and expenses of such drainage paid as provided for in section five of this act, and not otherwise. The board of county commissioners shall have no power to construct any work of drainage except in pursuance of the provisions of this act. Whenever it shall appear by the statements in a petition for drainage filed under provisions of this section, that the same if constructed will not, with all its branches, exceed two miles in length, and will not cost to exceed three hundred dollars exclusive of the tile that may

be used therein, and that the surveyor of the county is not interested therein, or related to the parties likely to be affected thereby, the auditor of the county shall refer the same at once to the surveyor of the county, and it shall be his duty to investigate and report therein to the auditor of such county within thirty days, and in so doing he shall perform and have all the duties and powers granted by this act to engineers, drainage commissioners and viewers in drainage proceedings. Upon the filing of such report, the auditor shall issue a notice to each land owner named therein, in which he shall set forth in proper blanks:

First. A general description of the route of said ditch.

Second. The names of the land owners named therein.

Third. A general description of such owner's land and the amount such land is assessed for benefits or damages.

Fourth. The day when the same will be heard by the board of commissioners, which shall be at the next ditch day, by the rules of such board that it is not less than fifteen days after such report is filed with the auditor. If the petitioner ask to serve such notices he may do so, but if he fails to call within three days after the filing of such report therefor or if he fails to serve the same, they shall be delivered to the sheriff of the county where such land owners reside, and such sheriff shall immediately serve the same as summons is served in civil actions, the cost thereof to be taxed to the petitioner as a part of the expense to be paid by him in said matter. Upon the day set for the hearing if the board of commissioners find that all persons named in said report have been notified thereof more than ten days prior to such day, they shall proceed to hear the same, and in so doing shall have power to hear and determine said matter the same as is granted in such proceedings to the circuit court and make such changes in plan of said work and to change and modify the assessments of benefits and damages as is granted to said court in this act. And every land owner shall have the right, and it shall be his duty, to file such objection thereto as might or could be done in such proceedings in the other sections of this act. If any land owner shall be dissatisfied with the judgment of such board, he shall have the right to appeal therefrom in the same manner that appeals are taken from other decisions of such board; and the court to which such appeal is taken shall have the power to hear and determine such matters as if it originated in such court. At all of such hearings the report of the surveyor shall be evidence of the fact therein stated, and the burden of changing such report shall be upon the remonstrant. Such ditch shall be constructed and repaired in the same manner as in the act provided for the construction and repair of other ditches. If it shall appear to the board that notice has not been given to all persons affected as hereinto provided, the

hearing of such matter shall be continued till they shall have received notice when such matter shall be heard, and if it appears by affidavit at any time that any land owner is a non-resident of the state, or his residence is unknown, the auditor of said county shall give notice of such matter in the same way and for the same time that notices are given to non-residence [residents] in civil actions in the circuit court.

Repairs—How Made—Assessments—Appeal.

SEC. 10. After the construction of any work of drainage as provided in this act, or under any law heretofore in force, the county surveyor of the county in which the proceedings were had in the construction thereof, shall keep the same in repair to the full dimensions as to width and depth, and as required in the original specifications: *Provided*, That no earth taken out of such ditch shall be placed nearer the banks of such ditch than such specifications required, nor nearer than two feet to the edge of such ditch as the bank of such ditch is at the time such repairs are made: *Provided*, That such parts of public drains as are within the corporate limits of any city or town shall be kept in repair by such city or town; and also that any city or town may convert into a sewer any part of any drain within such corporate limits, and to that end, may change the location of any such part of such drain on condition only that such change of location or conversion of such drain into a sewer shall not injuriously affect the general purpose of such drainage, and that no lands outside such corporate limits shall be charged thereby with any additional burden. Such work or repairs shall be let as a whole or by sections, as the surveyor may deem for the best interests of the parties to be affected and the lowest and best bidder or bidders, after notice first given for ten days by posting in three public places in each township into which such work extends, and near to the line of the work, and one at the door of the court house of each county into which such work extends. Other things being equal, the contract for such repairs may be let in preference to the persons who are to be assessed for the same, to the extent of their probable assessments, respectively. The county surveyor shall certify the cost of repairs, including his own per diem and that of his necessary assistants, of so much of any drain repaired under his direction as lies within any county, as soon as such repairs are completed; and the auditor shall thereupon draw his warrants therefor on the county treasurer payable to the proper persons, which warrant shall, for the time being, be paid out of the county revenue, but the treasury shall be reimbursed therefor as hereinafter provided. The compensation of the county surveyor shall be four dollars per day for the time in which he shall be actually engaged, and should

he be engaged on two or more works on the same day he shall divide such day among such works in proportion to the time devoted to each. For the purpose of reimbursing the county treasury the surveyor, as soon as the contracts for the repairs are made, and before any work is done thereon, shall apportion and assess the costs thereof upon the lands and corporations to be benefited by such repairs in proportion to such benefits and in no case in excess of the benefits: *Provided however,* That if such repairs shall have been rendered necessary by the act or negligence of the owner or occupant of any lands, or that of any employe or agent of either, or if the drain is filled and obstructed by the cattle or other stock of such land owner or his tenant or agent, the cost of the repairs so made necessary shall be assessed against such lands alone. The county surveyor shall make a record of such assessments, to be kept in his office and open to public inspection, and shall, within five days after making any assessment, post up written or printed notices in three public places in each township where such lands assessed are situated, and near to the work done, and one at the door of the court house of each county in which any of such lands are situated; and he shall note on the record in his office the time and place of posting of each of such notices. Any person or corporation so assessed may appeal therefrom to the circuit or superior court of the county in which the proceedings for the construction of the work were had, by filing with the clerk of such court, within ten days from the date of posting such notices, an appeal bond payable to such surveyor in twice the amount of his assessment, with surety to the approval of the clerk, conditioned that he will duly prosecute his appeal and pay all costs that may be adjudged against him. Thereupon the clerk shall issue a summons to the county surveyor which shall be served by the sheriff; and the surveyor shall file with the clerk a copy of the record of the assessment for such repairs, also of the notice thereof and a statement showing when and where the same was posted, which shall be all the pleadings necessary, and the appeal shall stand for trial at the same time as an appeal from the judgment of a justice of the peace. Such appeal shall be tried by the court without a jury; there may be a change of venue from the judge, but not from the county, and the only question tried shall be to determine whether such repairs are necessary, what is the cost thereof, whether appellant's lands are benefited thereby and, if so, what part thereof should be assessed against the lands of the appellant. From the decision of the court there shall be no appeal. Any contract for repairs shall be subject to the action of the court on such appeal. And no work shall be done until such appeal is determined. If the court shall reduce the assessment against the lands of the appellant twenty per cent. thereof, all the

costs occasioned by the appeal shall be added to and made a part of the total assessment and be distributed to the various tracts of land assessed for the repairs in proportion to such assessment, but if the court shall not reduce the assessment against the lands of the appellant twenty per cent. thereof, then the appellant shall pay all costs occasioned by the appeal, including the per diem of the surveyor for making the copy of the assessments. When such appeal is disposed of, the clerk of the court shall make out a certified copy of the assessments as confirmed by the court, and if no appeal is taken, the county surveyor shall make out such certified copy of assessments as made by him, and such clerk or surveyor, as the case may be, shall file such copy of assessments with the county auditor of each county in which lands are assessed. Thereupon each of such county auditors shall place so much of such assessments as are against the lands in his county upon the tax duplicate, and such assessments shall be a first lien, as taxes are a lien, upon the lands against which they are assessed, and shall be due and collected at the next ensuing semi-annual payment of state and county taxes, and all laws for the collection of state and county taxes shall apply and be enforced in the collection of such assessments. If more than one person appeal the cases may be consolidated and tried together; in which case the costs shall be apportioned as justice may require. The provisions of this section shall also apply to all works of drainage constructed under any law heretofore in force in this state. Upon failure of the county surveyor to perform the work required of him by this section, after ten days' of this notice in writing, by any person interested, such person shall have the right to file his petition for such repairs in the office of the clerk of the court in which the proceedings were had for the construction of such work of drainage on giving to such surveyor five days' notice in writing to appear before such court, or the judge thereof in vacation, and show cause why such reports should not be made; and such court or judge shall have the right to hear and determine such matter finally, and if such repairs are ordered the county surveyor shall be required to pay the costs of such petition, notice and hearing, and also such petitioner's reasonable attorney's fees: *Provided, however*, That any such repairs may, at any time, with the consent and under the direction of the county surveyor, be made at their own expense by any person or persons whose lands will be benefited thereby, and in such case the per diem of the county surveyor shall be paid out of the county treasury on the order of the county board. Nothing in this section shall be so construed as to prevent the construction of a new work of drainage along the line of the former drain.

Tiling or Change—Petition—Proceedings.

SEC. 11. Should the owner of any land, or any corporation, affected by the construction, change, improvement or extension of any work of drainage under this or any former law of this state, be of opinion that such work, or any part of it, may be more economically kept in repair, or may be made more efficient for its purpose, by tiling and covering; by removing tile and making the drain open; by changing the size or kind of tile; by deepening or widening the drain; by changing the line of the drain or extending its length; or by making any other change in the work as originally constructed, such land owner or corporation may apply for such change, improvement or extension by filing a petition therefor with the circuit or superior court, or with the board of commissioners, as the case may be, of the county in which the proceedings were had for the construction of such work. The form and contents of such petition and other provisions in relation thereto shall, so far as applicable, be the same as provided in section two of this act for the original petition for the construction of the work; and the provisions of section three, as to notice and hearing of such petition or remonstrance thereto, reference thereof to the drainage commissioners, preliminary report of such commissioners and action thereon; the provisions of section four as to the final report of the drainage commissioners, exceptions thereto and action on such exceptions and on the report; and the provisions of section five and section seven as to the duties of the superintendent of construction, shall, so far as applicable, be the same in case of such change or improvement in such work of drainage as in case of the original construction of the work; and if such work of change or improvement is done under the direction of the circuit or superior court, and the total cost exceed five thousand dollars, the provisions of section six in relation to the issue of drainage bonds shall also apply. In all other respects the provisions of this act in relation to the construction of any work of drainage shall, so far as applicable, govern in the making of any such change, improvement or extension of any work constructed under this act or under any former drainage law of this state.

Drains on State Lines.

SEC. 12. Whenever it may be desirable to construct, widen, deepen, straighten or change any ditch, drain or water course lying on, along, across or near to the state line between the State of Indiana and any adjoining state, or whenever it may be desirable to construct, repair or improve any work of drainage as provided for in this act, which ditch, drain, water course or other work of drainage can not be constructed, repaired or improved in

the best manner without affecting lands in such adjoining state, the boards of commissioners and other proper officers of the several counties in this state, so adjoining another state, shall have authority to join with the proper officers of such adjacent counties of other states in the construction, widening, deepening, straightening, repairing or improving of any such ditch, drain, water course or other work of drainage. Such commissioners of such counties in this state are given powers jointly to enter into contracts with the proper officers of such counties in adjoining states to construct, repair or improve any such work of drainage, each to pay such proportion of the costs and expenses of the work as by the contracting officials shall be deemed just. Such work of drainage shall be made on petition of land owners or corporations as provided for in this act in relation to other works of drainage; and all other provisions of this act so far as applicable shall govern the commissioners and other officers of this state in relation to such joint work of drainage, provided such adjoining county or counties in other states shall pay their proper share of necessary costs and expenses.

Proceedings as to Adjoining State.

SEC. 13. Whenever any land easements or other property located in an adjoining state and bordering on any stream or water course, shall be injuriously affected over and above any direct benefits it will receive by such work or drainage or the diversion in whole or in part, of the water from any such stream or water course, the owner may at any time before or within thirty days after being notified in writing of such proceedings make written application to said court or board of commissioners, as the case may be, setting forth therein all pertinent facts entitling him to the relief therein sought, to have his said damages ascertained and fixed and the same shall be ascertained and fixed as upon remonstrance or exception by the owner of lands, easements of property situate in this state and affected by such work. Such court or board of commissioners having jurisdiction of such proceedings, shall have power to ascertain and fix such damages, if any, and charge and tax the same up in said proceedings, against such work, and the land, easements and other property benefited thereby as a part of the costs of construction thereof to be paid as other costs of construction or repair are paid. Said notice to the owner shall be in writing, setting forth the title of the proceedings, the county, state and the name of the court or board of commissioners before which the same were had or are pending, a definite reference to the act under which such proceedings are had, the nature of such proceedings, together with a statement that such owner may have his said damages, if

any, ascertained and fixed by said board or court, as the case may be, upon due application made under such act. Said notice may be signed by any person petitioning for said work or by any one of said drainage commissioners, and may be served on any such owner at any place either within or without this state wherever he may be found, or by leaving a true, full and complete copy of such notice at the last usual place of residence of such owner. Service may be had upon any corporation by serving said notice upon any one of its agents in this state. If there be none such then upon any agent of such corporation at any place without this state. Said notice may be served by any party interested in said proceedings by his agent or attorney and proof of such service shall be made by the affidavit of the person making the same. Whenever said notice so served shall be filed in such proceedings or copied at length together with such proof of service, in the order book of said court or board, as the case may be, the same or the record thereof shall be conclusive evidence of such service for all purposes wherever necessary or the same may be in question. Any such owner so notified shall have no right, after said period of thirty days shall have expired, to claim any damages on account of said proceedings or work or resulting therefrom, and he shall not be permitted to bring, maintain or prosecute in any of the courts of this state any suit or proceedings to enjoin such proceedings or work nor to in any manner interfere therewith nor to affect or interfere with the drainage accomplished thereby nor with any proceedings or work to continue or perpetuate the same. Should any owner of any such lands, easements or property bring or prosecute at any time any proceedings or suit either at law or in chancery against any person or persons, either individually or in their official capacity, interested in or carrying out or perpetuating said work, drainage or diversion, in the United States circuit court for the District of Indiana, for damages growing out of said work or drainage or the diversion of the waters of a stream or water course, or to enjoin the same, or remove any suit or proceedings for such drainage or diversion from any court of this state to said United States court, and said court should in the exercise of its discretion and powers refuse to arrest, prevent, enjoin, or interfere with said proceedings to drain or divert or the consummation and perfection thereof, but should instead ascertain and fix the damages of any such owner claiming the same in any such suit or proceedings, the damages so ascertained and fixed by said United States court shall be taxed up and charged in such proceedings for drainage or diversion by said drainage commissioner as a part of the cost of construction, repair or maintenance of said work, drainage or diversion to be paid out of the fund derived from any assessment or assessments

provided for in this act, and such damages when so fixed shall be taxed and charged as ascertained and fixed by said court and be paid by assessments upon the lands benefited as herein provided. If any such owner or owners of any such lands, easements or property affected by such proceedings, work or the maintenance or perpetuation thereof and situate in an adjoining state shall receive no notice, as herein provided for, of such work or proceedings, in time to apply to said board of commissioners or court having jurisdiction thereof, or to said United States court, to have his damages ascertained and fixed as herein provided until after the assessments for the construction of said work are fixed or until after said work is completed, such damages, if any when so ascertained and fixed shall be provided for and paid for by an additional assessment made by said drainage commissioner or by an assessment as provided for in case of repairs or improvements of such work or drainage, as the case may be, as in this act provided.

Repeal—Exceptions.

SEC. 14. All laws and parts of laws heretofore enacted in relation to drainage are hereby repealed, but such repeal shall not affect any pending proceedings in which a ditch has been ordered established or in which there is no attempt to and which will not lower or affect any lake or body of water that has to exceed ten acres of surface at high water mark, and such proceedings and all remedies in relation thereto shall be concluded and be effective in all respects as if this act had not been passed: Nor shall this act be construed to repeal any act passed at this session of the general assembly in relation to the construction of drains and sewers in counties having a city therein of not less than 59,000 nor more than 100,000 population according to the last preceding United States census, nor shall this act be deemed to repeal or affect any act passed at this session of the general assembly to preserve the fresh water lakes of the State of Indiana at their established level and to protect them from danger of being injuriously affected or destroyed: *Provided, further*, That such repeal shall not affect or be construed to repeal any other act upon the subject of drainage passed by the present general assembly.

CHAPTER 158.

AN ACT concerning the purity of elections, the hiring, buying, and offering to hire or buy votes, and the selling, bartering and offering to sell votes, and prescribing penalties therefor, and repealing an act entitled "an act to procure the purity of general, special and primary elections and conventions, prescribing punishment for the violation thereof and reward for conviction of violations of the provisions thereof, and to repeal sections three (3), four (4), five (5) and six (6) of an act entitled an act concerning elections and nominating conventions, to maintain political purity and prescribing punishment for any violation thereof,' approved March 9, 1889, and 'an act entitled an act to secure the purity and freedom of the ballot and to repeal sections one (1), two (2), three (3) and five (5) of an act entitled an act to protect the ballot box, to procure fair elections, to prevent the purchase or sale of votes, and to provide means of proving such offenses, prescribing the penalty therefor, and repealing sections 268 and 269 of an act concerning public offenses and their punishment, approved April 14, 1881, being sections 2184 and 2185 of the revised statutes of 1881, and repealing all laws and parts of laws in conflict with the provisions of this act, approved March 9, 1889, and an act concerning public offenses and their offenses [sic] and their punishment, approved March 8, 1897, and all laws and parts of laws in conflict with the provisions of this act," approved March 4, 1899.

[S. 94. APPROVED MARCH 6, 1905.]

Election—Buying Votes—Penalty.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That whoever, directly or indirectly, hires, buys or offers to hire or buy, or furnish any money or other means to be used, or directs or permits his money or other means to be used, or handles any money or other means, knowing the same to be used to induce, hire, or buy any person to vote or refrain from voting any ticket or for any candidate for any office, to be voted for at any election held in this state; or whoever attempts to induce any person to vote or to refrain from voting for any candidate for any office to be voted for at any election held pursuant to law or at any primary held in this state, by offering such person any reward or favor, shall be fined in any sum not more than fifty dollars and disfranchised and rendered incapable of holding any office of trust or profit for a period of ten years from the date of such conviction.

Selling Votes—Penalty.

SEC. 2. Whoever sells, barters, or offers to sell or barter his vote or offers to refrain from voting for any candidate for any office to be voted for at any election held in this state, either for

any money or property or thing of value or for any promise or favor or hope of reward, given or offered by any candidate to be voted for at any election held in this state or by any other person or persons, shall be fined in any sum not more than fifty dollars and disfranchised and rendered incapable of holding any office of trust or profit for a period of ten years from the date of such conviction.

Witnesses.

SEC. 3. Any person called as a witness to testify against another for the violation of any of the provisions of sections one or two of this act, is a competent witness to prove the offense, although he may have been concerned as a party, and he shall be compelled to testify as other witnesses, but such evidence shall not be used against him in any prosecution for such or any other offense growing out of matters about which he testifies, and he shall not be liable to trial by indictment or information or punished for such offense.

Repeal.

SEC. 4. That the act entitled "An act to procure the purity of general, special and primary elections and conventions, prescribing punishment for the violation thereof, and reward for conviction of violations of the provisions thereof, and to repeal sections three (3), four (4), five (5) and six (6) of an act entitled 'An act concerning elections and nominating conventions, to maintain political purity and prescribing punishment for any violation thereof,' approved March 9, 1889, and an act entitled 'An act to secure the purity and freedom of the ballot and to repeal sections one (1), two (2), three (3) and five (5) of an act entitled 'An act to protect the ballot box, to procure fair elections, to prevent the purchase or sale of votes, to provide means of proving such offenses, prescribing the penalty therefor and repealing sections 268 and 269 of an act concerning public offenses and their punishment, approved April 14, 1881, being sections 2184 and 2185 of the revised statutes of 1881, and repealing all laws and parts of laws in conflict with the provisions of this act, approved March 9, 1889, and an act concerning public offenses and their punishment, approved March 8, 1897, and all laws and parts of laws in conflict with the provisions of this act, approved March 4, 1899, be and the same is hereby repealed.

Chapter 159.

AN ACT authorizing and providing for the establishment and organization of the Indiana village for epileptics, making appropriations therefor, defining its purposes and methods, and declaring an emergency.

[S. 167. Approved March 6, 1905.]

Indiana Village for Epileptics.

Section 1. *Be it enacted by the general assembly of the State of Indiana*, That there shall be established in this state a village for epileptics, the object of which shall be the scientific treatment, education, employment and custody of epileptics, and which shall be known as the Indiana village for epileptics. In the establishment of this institution, the general assembly recognizes the duty of the state to provide proper care for such of its citizens as are, or may become, affected with the disease of epilepsy.

Commission to Locate—Appointment—Compensation.

Sec. 2. The governor shall, within ninety (90) days after the taking effect of this act, appoint three (3) commissioners, citizens of this state, not more than two (2) of whom shall be members of the same political party, who shall constitute a commission to decide upon a location, and purchase the land upon which to establish said village for epileptics, and selection may be by agreement of the majority of the members. In the selection of a suitable site for this purpose, said commissioners shall take into consideration the fulfillment of the object above stated, and also the natural advantages of the location, for varied forms of husbandry, brick-making, if possible, adequate and suitable drainage and water supply, railroad advantages, for all necessary building and its general adaptability, so as to provide for the erection of a model village for epileptics. Said commissioners shall not take into consideration any offer of land or other donation or inducement in deciding upon the location for the village proposed by this act. Said commissioners shall receive five ($5.00) dollars per day while actually employed and actual traveling expenses until such land is purchased, which must be within one (1) year of the taking effect of this act.

Purchase of Land.

Sec. 3. Said commissioners shall purchase not less than one thousand (1,000) acres of land for the purpose of said village for epileptics; the title to the land shall be good and sufficient, shall be approved by the attorney-general, and shall be taken in the name of the State of Indiana.

Trustees—Appointment—Terms—Compensation.

SEC. 4. When said land shall have been purchased, the governor shall appoint a board of three (3) trustees, not more than two (2) of whom shall belong to the same political party, to whom shall be intrusted the government and control of said village for epileptics. One shall serve for one (1) year, one for two (2) years, and one for three (3) years, as may be designated by the governor at the time of their appointment; and at the expiration of the term of office of each member of the board, his successor shall be appointed in the manner and by the authority as heretofore provided, for the term of three (3) years. When a vacancy occurs in the board of trustees otherwise than at the expiration of the term of office of one of its members, such vacancy shall be filled by an appointment by the governor for the unexpired term. And it is hereby provided that the governor may remove any of the trustees from office for misconduct or neglect of duty, after an opportunity to be heard upon written charges. Said trustees shall receive four hundred ($400.00) dollars per year each for their services, and they shall be allowed their reasonable traveling and other official expenses, to be paid as other expenses of said institution are paid.

Superintendent—Selection.

SEC. 5. Said board of trustees shall at once select a superintendent, who shall be a reputable physician and surgeon experienced in a similar institution or in an institution for the insane, who shall also act as the medical engineer in the construction and development of the village contemplated by this act.

Superintendent—Duties.

SEC. 6. The superintendent shall be the chief executive officer of the village, and shall have the care and control of everything connected therewith, under such rules and regulations as may be established by the board of trustees. He shall see that the several officers and employes of the institution faithfully and diligently discharge their respective duties. He shall employ such officers and employes as he may think proper, under the above mentioned rules and regulations, and assign them their duties, and may, at pleasure, discharge them.

Employes.

SEC. 7. No political consideration shall be given in the selection or discharge of any officer or employe, and the members of said board of trustees shall not solicit or request the superintendent to appoint any person to a position in the institution. The salaries of all officials and employes shall be fixed by the board of trustees.

Building Plans.

SEC. 8. Said board of trustees shall promptly procure plans, which shall be agreed upon by its members, or a majority of them, and its superintendent, and construct and equip in a suitable manner the buildings necessary for said village for epileptics. The plans shall provide for suitable and substantial buildings and necessary appurtenances, and shall embody the best ideas of sanitary and standard construction. All plans shall, before adoption, be submitted to the board of state charities for suggestion.

Contract—Bids—Bonds.

SEC. 9. After proper advertisement of the letting, a contract of construction and equipment of said buildings shall be awarded to the lowest and best bidders. The successful bidder shall give sufficient bond to the satisfaction of the board of trustees and the governor.

Appropriation for Land and Buildings.

SEC. 10. There is hereby appropriated out of any funds not otherwise appropriated, one hundred and fifty thousand ($150,000) dollars, or so much thereof as may be necessary, for the purchase of the land and for the erection and equipment of the buildings authorized by this act.

Labor by Epileptics—First Admissions.

SEC. 11. When the institution has advanced sufficiently to employ the labor of any epileptic, the board of trustees is authorized to receive patients, in the order mentioned, who may be employed for that purpose, first, from the poor asylums, jails, orphans' homes or other county institutions; then from dependent or other indigent classes, elsewhere in the state, outside of institutions, and third, from state hospitals, or institutions, upon the recommendation of the superintendents of such institutions: *Provided*, That no hopelessly or violently insane person shall be transferred to the Indiana village for epileptics. Hopeful cases shall, in all instances, have the preference in all admissions. The cost of their maintenance shall be paid out of the construction fund until the first day of June, 1907, or until otherwise provided for.

Admission—Proclamation.

SEC. 12. When a sufficient number of buildings shall have been completed and equipped for the admission of patients, the governor shall be advised of the fact, and shall thereupon issue a proclamation to that effect.

Appropriation—Maintenance.

SEC. 13. For the maintenance of the institution, there is hereby appropriated a per capita allowance at the rate of two hundred ($200.00) dollars per year for each patient, based upon the report of daily average number of patients present each month, which report shall be certified to by the board of state charities. The maintenance fund shall be immediately available upon the issuance of the governor's proclamation, and shall continue until the conclusion of the next session of the legislature.

Eligibles—Allotment.

SEC. 14. All epileptic persons who have a legal settlement in this state shall be considered admissible as inmates of the Indiana village for epileptics. The number of inmates shall be allotted among the several counties of the state according to their population; said quota to be apportioned among the several classes of epileptics in such manner as may be deemed by the trustees for the best interests of the state.

Application to Court—Form—Hearing—Admission.

SEC. 15. Such epileptic persons shall be committed to said village for epileptics by the judges of the circuit courts in the various counties, and any such cause shall be heard in chambers. A reputable citizen of the county from which an application is to be made, shall make an application under oath setting forth information substantially as follows: The age, sex, race, general mental and physical condition, and residence of the applicant, whether such applicant is under the charge of a guardian or parents, and, where known, the cause and duration of the epileptic condition, and such other facts regarding the applicant's personal and family history as the trustees may require; which facts shall be submitted to the judge of the circuit court having jurisdiction over that county, together with a certificate of a reputable physician that the applicant is admissible under the rules of the board of trustees, and is free from any infectious or contagious disease and from vermin. When such statements have been filed, the said judge shall appoint two medical examiners who shall be physicians of not less than five (5) years' experience in the general practice of medicine and surgery, and not related to the person for whom application is made by consanguinity or marriage. It shall be the duty of said medical examiners to carefully and separately examine said person for whom application is made and separately certify in writing to said judge whether said person is an epileptic or subject to epileptic seizures. In his discretion the judge may call additional witnesses until fully satisfied of the condition as to epilepsy of the person under inquiry. If it

shall appear to the judge that the person is afflicted with epilepsy, he shall enter an order of commitment in the proper record, at the same time directing the clerk of the circuit court to forthwith apply to the superintendent of the Indiana village for epileptics for the admission of said person to said village, and to transmit with said application to said superintendent, for his information, copies of all statements and certificates submitted, certified to be such under the seal of the court. Upon receiving said application and transcript of statements and certificates, said superintendent of the Indiana village for epileptics shall immediately determine upon the information therein contained, whether or not the case is admissible; and if there shall be room within the institution of which he is superintendent, he shall at once notify the proper clerk of the acceptance of the application for admission. Should there be no room in the village for epileptics, the superintendent shall suspend the application for further consideration when vacancies do occur.

Clothing—Conveyance to Village.

SEC. 16. The clerk of the proper court, upon receipt of the acceptance of the application for the admission of the epileptic person to the Indiana village for epileptics, shall report the same to the judge, whereupon the judge shall instruct the county clerk to see that the patient is supplied with proper clothing, and if not otherwise furnished, he shall furnish said clothing, at the expense of the county. If the judge deems it proper to entrust the conveyance of the patient to his friend, parent, guardian or representative, he may issue the warrant to such friend, parent, guardian or representative, instead of to the sheriff. If no other provision is made for a custodian, then the judge shall issue a warrant to the sheriff, who shall transfer said patient to said village for epileptics in the same manner and in accordance with the same forms as are now provided by law for the transfer of patients to insane hospitals, so far as they are applicable: *Provided*, That no female epileptic patient shall be taken to or from said village for epileptics except she be in the care of or accompanied by a woman.

Costs—Payment by County.

SEC. 17. The expense of clothing the patient, if not paid by himself or his relatives or friends, shall be paid by the county; and if furnished by the institution, shall be collected from the county, as now provided in the case of insane patients in the hospitals for the insane. The traveling or incidental expenses of the patient, and also of the officer or person in charge of said patient, to and from said institution, shall be paid by the county;

the fees of medical examiners and other officers, witnesses and persons, growing out of the proceedings for commitment of the patient to said village for epileptics, shall be paid in the same manner and at the same rate as provided by law for the inquiries concerning the commitment of insane persons to the state hospitals for the insane.

Transfer from Hospitals—Costs.

SEC. 18. At any time it is found desirable to transfer any patient from any hospital for the insane in this state, or from the school for feeble minded youth to the Indiana village for epileptics, such patient may be transferred upon the recommendation of the medical superintendent or superintendents of such hospital for the insane or school for feeble minded youth, and the superintendent of the Indiana village for epileptics. If desirable at any time, such case may be referred to the secretary of the board of state charities for investigation and recommendation. The cost of transfer of any patient from one institution to another shall be paid by the institution making the transfer, and shall be paid out of the maintenance fund of said institution; and upon the receipt of proper receipt and vouchers for such expense, the auditor shall allow credit to the maintenance fund of such institution for a like amount from the general fund.

Order of Admissions.

SEC. 19. When said village for epileptics is prepared to receive patients it shall receive them in the order as provided for in section 11 of this act, it being understood that such acceptance shall be distributed equitably among the several institutions. It is further provided that commitments shall be instituted for inmates of the school for feeble minded youth whom it may be desirable to transfer to the Indiana village for epileptics in the same manner as is herein prescribed for other patients, and the cost of such commitment shall be paid out of the maintenance fund and credited by the auditor of state in same manner as prescribed for the expense of transfer in section 18.

Rules and Regulations.

SEC. 20. The board of trustees is empowered to make such rules and regulations respecting the care, custody and discipline of patients and the management of the institution and its affairs as it may deem best for the interests of the patients and the state. All persons admitted to the institution shall, until properly discharged from said institution, be under the custody and control of the superintendent; and the superintendent may, subject to such regulation as the trustees see fit to adopt, restrain and dis-

cipline any patient in such manner as he may judge is demanded for the welfare of the patient and the proper conduct of the institution.

Discharge.

SEC. 21. No person shall be discharged from the said village for epileptics until, in the judgment of the superintendent, the mental and physical condition of the patient justifies it.

Trustees—Meetings.

SEC. 22. The board of trustees shall meet once each month. They shall keep a full account of their proceedings in a book to be provided for that purpose. The superintendent shall make monthly reports to the trustees, shall make a full report to them at their annual meeting, and the trustees at that meeting shall make a full report to the general assembly, accompanying the same with the annual report of the superintendent. The keeping of records, inventories and accounts shall be, so far as practicable, in conformity with existing laws regarding institutions for the insane, and settlement shall be made with the auditor of state monthly, in accordance with existing laws.

Emergency.

SEC. 23. Whereas there exists an emergency for the immediate taking effect of this act, it shall be in full force and effect from and after its passage.

CHAPTER 160.

AN ACT concerning the construction of free gravel, stone or macadamized roads; providing for estimates of the same and receiving bids for the construction of the same, and declaring an emergency.

[S. 16. APPROVED MARCH 7, 1905.]

Highways—Township of Less Than 30,000—New Estimate.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That whenever in the past or hereafter, the qualified electors of any township or townships, including towns or cities, in said township or townships of less than thirty thousand inhabitants, have voted, or may vote, for the improvement by grading, graveling, paving with stone or other paving or macadamizing material, any road or roads in said township or townships under any law of this state, and the board of county commissioners of the county wherein said road or roads are situated, have advertised according to law for bids for the construction of said road or roads, and have

received no bids for the construction of said road or roads, and the said board of commissioners find, after investigation, that the cause of receiving no bids for said roads, is that the estimate of the cost of the construction of said road or roads as made by the viewers and engineer of said road or roads to be less than the cost of procuring the same to be constructed, said board of commisioners may appoint an engineer and two viewers, having the qualifications provided by the statute under which the roads have been voted, to prepare an estimate of the cost of the construction of the same, and report the same to the board of commissioners. If the board of commissioners approve of said estimate, the same shall be entered of record and the board of commissioners shall then give notice by publication for two (2) weeks in a weekly newspaper published in said county to the voters of the township or townships wherein the road or roads are situate of said new estimate and the amount thereof, and if within twenty (20) days thereafter a remonstrance is filed with the auditor of the county signed by a majority of the legal voters of the township or townships wherein the roads are situate, the said proceedings shall end, but if no such remonstrance is filed, the said estimate shall thenceforth be the estimate for said road or roads, and shall be taken and considered and be a part of the original report of engineer and viewers of said road or roads. Said board of commissioners shall then proceed to advertise and let the contract for the construction of said roads as provided by law.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force and effect from and after its passage.

CHAPTER 161.

AN ACT to amend section 655 of an act entitled "An act concerning proceedings in civil cases," approved April 7th, 1881, being section 646 of the revised statutes of 1881, and declaring an emergency.

[S. 203. APPROVED MARCH 7, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 655 of an act entitled "An act concerning proceedings in civil cases," approved April 7, 1881, being section 646 of the revised statutes, 1881, be amended to read as follows:

Supreme Court—Appeal from Interlocutory Order.

Section 655. Appeals to supreme court may be taken from an interlocutory order of any circuit court or judge thereof, in the following cases:

First. For the payment of money, to compel the execution of any instrument of writing, or the delivery or assignment of any securities, evidences of debt, documents or things in action.

Second. For the delivery of the possession of real property or the sale thereof.

Third. Granting or dissolving, or overruling motions to dissolve an injunction in term, and granting an injunction in vacation.

Fourth. Orders and judgments upon writs of habeas corpus made in term or vacation: *Provided,* That in any such case where an appeal is taken from any such order or judgment involving the custody of an infant, the court from which such appeal is taken shall make such order concerning the care and custody of such infant during the pendency of such appeal as shall be for the best interest of such infant.

Emergency.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force and effect from and after its passage.

CHAPTER 162.

AN ACT to amend section three (3) of an act entitled "An act to amend an act entitled an act to provide for a general system of common schools, the officers thereof, and their respective powers and duties, and matters properly connected therewith, and prescribing the fees for certain officers therein named, and for the establishment and regulation of township libraries, and to repeal all laws inconsistent therewith, providing penalties therein prescribed, approved March 6, 1865, and adding supplemental sections thereto," approved March 8, 1873.

[H. 105. APPROVED MARCH 7, 1905.]

Amendment.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That section 3 of an act entitled "An act to amend an act entitled an act to provide for a general system of common schools, the officers thereof, and their respective powers and duties, and matters properly connected therewith, and prescribing the fees for certain officers therein named, and for the establishment and regulation of township libraries and to repeal all laws inconsistent therewith, providing penalties therein prescribed, approved March 6, 1865, and adding supplemental sections thereto," approved March 8, 1873, be amended to read as follows, to wit:

School Trustees—Special School Tax.

Section 3. That section 12 of said act be amended to read as follows, to wit:

Section 12. The trustees of the several townships, towns and cities, shall have the power to levy a special tax, in their respective townships, towns or cities, for the construction, renting or repairing of school houses, providing furniture, school apparatus, and fuel therefor, and for the payment of other necessary expenses of the school, including tuition and teachers' salaries, whenever in any current year the tuition funds shall have been exhausted; but no tax shall exceed the sum of fifty (50) cents on each one hundred dollars ($100.00) worth of taxable property, and one dollar ($1.00) on each poll, in any one year, and the income from said tax shall be denominated the special school revenue.

CHAPTER 163.

AN ACT concerning county superintendents, their qualifications, their compensation, and their assistants.

[H. 307. APPROVED MARCH 7, 1905.]

Schools—County Superintendents.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That no person shall be eligible to, or shall hold the office of, county superintendent unless he hold at the time of his election a thirty-six months' state license, a sixty months' license, a life or a professional license, to teach in the common schools of this state; but nothing herein contained shall affect the title to his office of any county superintendent now in office.

Per Diem for Services.

SEC. 2. A county superintendent shall receive in full for all services rendered by him four dollars and fifty cents ($4.50) per day for each day he shall be employed in the actual performance of his duties.

Repeal.

SEC. 3. All laws and parts of laws in conflict herewith are hereby repealed.

Emergency.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

Chapter 164.

AN ACT entitled an act concerning the construction of free gravel, stone or other macadamized roads on county lines and for the payment of the cost thereof and their maintenance on county lines.

[H. 396. Approved March 7, 1905.]

Highways—On County Lines—Connecting Link.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That where any unimproved highway, on or along the boundary line between any two counties of this state, connecting at each terminus with a constructed free gravel or macadamized road, where said unimproved highway does not exceed three miles in length, the county commissioners of either county adjoining such unimproved public highway, upon the petition of fifty freeholder voters of any township or townships abutting such unimproved public highway, including therein all towns and cities of less than thirty thousand inhabitants, and the giving of notice, as hereinafter required, shall at their next regular term or session after the giving of such notice, proceed to consider such petitions, and if they find the same to be sufficient and in compliance with the provisions of this act, they shall proceed at once, as hereinafter provided for, to have such unimproved public highway improved by grading, draining, graveling, paving with stone or macadamizing materials, to connect with any other completed free gravel, stone or other macadamized road.

County Commissioners—Hearing—Notices.

Sec. 2. Upon the filing of any such petition, the auditor shall endorse upon the same a day in the next regular session of the board of commissioners, when such petition shall be heard by said board. It shall thereupon be the duty of the county auditor to transmit a certified copy of such petition with the signatures thereto attached to the county auditor of the adjoining county to such highway to be improved by such petition, and shall also give notice for three weeks by publication in some weekly newspaper of general circulation printed in the English language and published in the county, or if there be no such paper published in the county, then by posting up in three public places in the township where such improvement is located, and one at the door of the court house in such county, written or printed notices, which notices, whether published or posted, shall contain a description of the improvement prayed for in the petition, and the date when the same is fixed for hearing before said board of commissioners. The county auditor of the adjoining county upon the receipt of the certified copy of the

petition shall forthwith cause similar notice to be given in his county in a similar manner, said notices to particularly state in addition the county in which said petition is pending.

Remonstrance—Order—Adjoining County—Procedure.

SEC. 3. Upon the day fixed for the hearing of said petition said board of commissioners of the county in which said petition is filed shall proceed to consider the same, and the board of commissioners shall give due consideration to any and all remonstrances filed before said board against said proposed improvement, which remonstrators shall be freehold residents of said township or townships sought to be charged with the construction of said proposed improvement, and in case said remonstrance shall fail the cost of said remonstrance shall be paid by the remonstrators and said board of commissioners shall have discretionary power to order or refuse to order said proposed improvement, and if they find it to be sufficient and in compliance with the provisions of this act they shall establish said improvement and order the same to be constructed, and the status of such improvement so ordered shall thereupon become and be exactly the same as any proposed improvement that had been regularly petitioned for and voted upon at an election regularly held under the provisions of said act of March 3, 1893, and the amendments thereto, or under an act approved March 11, 1901, and returns regularly made by the proper election officers in favor thereof. The county auditor shall make a certified copy of all proceedings of said board, together with the order causing such proceedings to be made, and forthwith forward such certified copy to the county auditor of such adjoining county. Upon receipt of such certified copy the county auditor of such adjoining county shall bring said copy before the board of commissioners of such county at their regular or special meeting, and the said board shall cause such order to be entered in full in the records of such session of their board. Further proceedings in said matter shall be had by the board of commissioners before whom said petition was originally filed under and according to the provisions of said act of March 11, 1901, and amendments thereto, until said work has been completed, and said act of March 11, 1901, and the amendments thereto shall cover all steps subsequent to the establishment of such improvement as aforesaid by order of said board of commissioners, including the duties of said board pertaining to the work, the appointment and qualifications of surveyor, engineer and viewers and their duties, the assessment for damages, the making of claims for damages, the advertising for bids and the letting of contracts; except, that if said board of commissioners find they can procure the work to be constructed at the

same or less rate of expense than the contract price for the original improvement to which the improvement provided for by this act is supplementary and the two works are [of] the same general character as to the materials and the manner of construction, then it shall not be necessary to advertise for or receive bids for the construction of the new work, including the furnishing of materials therefor, but the board of commissioners may without advertisement and bids proceed to let the contract for the work at a rate not in excess of the rate at which the original work so being supplemented under provisions of this act was constructed.

Expenses—Township Apportionment—Bonds.

SEC. 4. Each township abutting said highway to be improved shall pay the expense of such improvement, including the cost of the survey, printing, bonds, publications and the expense of county auditor and members of the board of commissioners attending any meeting or meetings out of their own county, in the same manner, extent and portions, and under the same rule as now provided by law in section seven of an act approved March 11, 1901, acts 1901, page 449. And for the purpose of determining the amount of money each township shall raise for the constructing or improving such roads the commissioners of the two counties shall meet in joint session after the contract has been let and shall divide and apportion the total cost of such improvement among the townships abutting said road to be improved, in the same ratio that the assessed valuation of all the property in each township bears to the assessed valuation of all the property in all the said abutting townships, and each board of county commissioners shall issue and sell bonds of its own county to cover its part of the total cost as above determined.

Special Tax.

SEC. 5. For the purpose of raising money necessary to meet said bonds and interest thereon, the boards of commissioners of each county shall annually thereafter at the time the general tax levy is made, levy a special tax upon all the property of the township or townships, including towns and cities, if such there be, of less than thirty thousand inhabitants, in such manner as to meet the principal and interest of said bonds as they become due, and such tax shall be collected as other taxes, and as provided in section seven of an act approved March 11, 1901, acts 1901, page 449; each county to pay its own bonds.

Estimates—Meeting of Boards—Acceptance.

SEC. 6. The estimates in favor of the contractor as provided in the act approved March 11, 1901, acts 1901, page 449, shall be

made out in duplicate and one filed with the auditor of each county, and each county shall pay its proper and proportionate share of such estimates as now provided by law. And when said construction or improvement is completed according to the contract, plans and specifications, it shall be the duty of the engineer in charge of such work to notify the auditor of each county of such completion, and the auditor of the county where the petition was filed shall appoint a time and place for the boards of commissioners of both counties to meet in joint session not more than ten days from the receipt of the notice from the engineer, and said auditor shall cause notice to be served on all the commissioners directing them to meet in joint session at the time and place fixed by him. And it shall be the duty of such commissioners to meet at such time and place and go over and inspect the road with the assistance and advice of the engineer, and shall apportion such county line road equally as nearly as may be, between their respective counties for the purpose of maintenance, and the respective portions as thus fixed shall thereafter be maintained by such counties as free, turnpike, gravel and macadamized roads are now or may hereafter be maintained by the counties of this state. If they deem such work performed according to contract, plans and specifications, they shall adjourn said joint session and repair to their respective counties to their usual places of meeting and enter of record an order accepting and receiving such work and order and allow the payment of the balance of the contract price due from such county.

Joint Sessions of Commissioners.

SEC. 7. For the purpose of carrying out the provisions of this act the county commissioners of such counties may meet in joint session as often as may be necessary and at such times and places as the board may appoint, due notice of the time and place having been served on the commissioners of the adjoining county and such joint session may adjourn from day to day or from one period to another as may be necessary.

CHAPTER 165.

AN ACT making appropriations and fixing salaries and office hours of the state government and its institutions, making certain specific appropriations, directing the application of such appropriations, requiring accounts to be kept by the fiscal year of the state, repealing inconsistent laws, and providing for quarterly payment of the fees, and declaring an emergency.

[H. 431. APPROVED MARCH 7, 1905.]

Appropriation—State Government and Institutions.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That for the expenses of the state government and its institutions during the several terms herein named, the following sums of money are hereby appropriated. Such sums so appropriated shall be held to include all appropriations made or expenditures authorized by any existing law for said terms on account of officers, offices, institutions and services herein named, unless otherwise expressly provided for by statute.

Fiscal Year, 1905-06.

SEC. 2. That for the fiscal year beginning the first day of November, 1905, and ending on the 31st day of October, 1906, including the specific appropriations herein named, there are hereby appropriated the following sums of money:

EDUCATIONAL INSTITUTIONS.

Indiana University.

For Indiana University, at Bloomington: *Specific.* Library building, on [one] hundred thousand dollars, one-half of this amount to be available November 1, 1905, and one-half available November 1, 1906; Alva Dobson, for unpaid balance of assessment on account of the improvement of Indiana avenue in city of Bloomington, three hundred and fourteen dollars and thirty-two cents.

Purdue University.

For Purdue University, at Lafayette: *Specific.* Chemical building, sixty thousand dollars, this amount to be available November 1, 1906; civil engineering building, forty thousand dollars.

Institution for Education of Blind.

For the Institution for the Education of the Blind, at Indianapolis: *Regular.* Maintenance, thirty-four thousand dollars; repairs, twenty-five hundred dollars; industries, three thousand dollars; library, five hundred dollars. *Specific.* Two new pianos, seven hundred dollars; one stoker or grates, seven hundred and fifty dollars.

Institution for Education of Deaf.

For the Institution for the Education of the Deaf, at Indianapolis: *Regular.* Maintenance, seventy thousand dollars, and one hundred ninety-five dollars per capita per annum for each person actually present over a daily average number of three hundred and twenty-two inmates each month, which sum is hereby appropriated out of any money not otherwise appropriated. Said excess amount to be approved by the board of state charities. Industries, four thousand and five hundred dollars; repairs, one thousand dollars.

BENEVOLENT INSTITUTIONS.

Central Hospital for Insane.

For the Central Hospital for Insane: *Regular.* Maintenance, three hundred thousand dollars, and one hundred and sixty dollars per capita per annum for each person actually present over a daily average number of seventeen hundred and eighty-eight inmates each month; which sum is hereby appropriated out of any money in the treasury not otherwise appropriated. Said excess amount to be approved by the board of state charities. Repairs, twenty-five thousand dollars; clothing, fourteen thousand dollars. *Specific.* Painting, five thousand dollars; electrical equipment, five thousand dollars; laundry equipment, twenty-five hundred dollars; cement work, fifteen hundred dollars.

Eastern Hospital for Insane.

For the Eastern Hospital for Insane: *Regular.* Maintenance, one hundred and sixteen thousand dollars, and one hundred and sixty dollars per capita per annum for each person actually present over a daily average number of seven hundred inmates each month; which sum is hereby appropriated out of any money in the treasury not otherwise appropriated. Said excess amount to be approved by the board of state charities. Repairs, six thousand dollars; clothing, five thousand dollars. *Specific.* Tile floors and plumbing, two thousand dollars; laundry equipment, fourteen hundred dollars; farm buildings, seven thousand and two hundred dollars; water supply, ten thousand dollars; railway crossing, twenty-five hundred dollars; additions to cottages G & H and C & D, eighteen hundred dollars.

Northern Hospital for Insane.

For the Northern Hospital for Insane: *Regular.* Maintenance, one hundred and thirty-five thousand dollars, and one hundred and sixty dollars per capita per annum for each person actually present over a daily average number of eight hundred and thirty-four in-

mates each month; which sum is hereby appropriated out of any money in the treasury not otherwise appropriated. Said excess amount to be approved by the board of state charities. Repairs, seven thousand and five hundred dollars; clothing, six thousand dollars. *Specific.* Hot water system, twenty-five hundred dollars; laundry equipment, twenty-five hundred dollars; tile floors, twenty-five hundred dollars; roof repairs, twenty-five hundred dollars; two new cottages, eighty thousand dollars, one half of this amount to be available November 1, 1905, and one-half available November 1, 1906.

Southern Hospital for Insane.

For the Southern Hospital for Insane: *Regular.* Maintenance, one hundred and three thousand and nine hundred and fifty dollars, and one hundred and sixty dollars per capita per annum for each person actually present over a daily average number of six hundred and twenty-seven inmates each month; which sum is hereby appropriated out of any money in the treasury not otherwise appropriated. Said excess amount to be approved by the board of state charities. Repairs, six thousand dollars; clothing, four thousand dollars; painting, one thousand dollars. *Specific.* Water tank and softening process, twelve thousand dollars; repairs to smoke stack, two hundred dollars; warehouse and fire department, two thousand dollars; bakery and equipment, four thousand dollars; one fire escape, one thousand dollars; equipment and painting of laundry, two thousand dollars; equipment for machine shops, one thousand dollars; repairs to heating system, three thousand dollars.

School for Feeble-Minded Institute.

For the School for Feeble-minded Youth: *Regular.* Maintenance, one hundred and twenty-two thousand dollars, and one hundred and sixteen dollars per capita per annum for each person actually present over a daily average number of one thousand inmates each month; which sum is hereby appropriated out of any money in the treasury not otherwise appropriated. Said excess amount to be approved by the board of state charities. Repairs, six thousand dollars. *Specific.* Custodial cottage for boys, fifty thousand dollars to be available November 1, 1905; new kitchen and dining room at colony farm, nine thousand dollars; additional to laundry and machinery, five thousand dollars; heating hospital building, three thousand and five hundred dollars; improvement to heating and power plant, eight thousand dollars; painting, three thousand dollars; fire protection, main building colony farm, three thousand dollars.

Soldiers' and Sailors' Orphans' Home.

For the Soldiers' and Sailors' Orphans' Home: *Regular.* Maintenance, one hundred thousand dollars; repairs, five thousand dollars; library, three hundred dollars; insurance premiums, seven hundred dollars; agent's fund for home finding, one thousand dollars. *Specific.* Additional maintenance, 1905, five thousand dollars, to be immediately available; engine and dynamo house, four thousand and two hundred and forty-six dollars; lumber and pipe house, twenty-five hundred dollars; completion of front fence, seven hundred and fifty dollars.

Soldiers' Home.

For the Soldiers' Home: *Specific.* Widows' home and furnishing, fifty thousand dollars, one-half of this amount to be available November 1, 1905, and one-half available November 1, 1906; hospital kitchen and porches, two thousand dollars; extension to kitchen, old people's building, one thousand dollars; extension of laundry and machinery, one thousand dollars; water pipes, fire plugs and ice pond, twenty-five hundred dollars; cement walks, two thousand dollars; improvement of cemetery grounds, walks and drives, one thousand dollars; extension of steam pipes, two thousand dollars; flag pole, two hundred dollars; frames for portraits, one hundred dollars; new oven and extension to bakery, two thousand dollars; for sewerage, three thousand dollars; enlarging heating plant, new boilers, smoke stack, automatic stoker, power building, filter, pipe extensions, connections, and removal of machinery and equipment, thirty-six thousand and two hundred and fifty dollars; for repairs, four thousand dollars.

CORRECTIONAL INSTITUTIONS.

Indiana Boys' School.

For the Indiana Boys' School: *Regular.* Maintenance, seventy-five thousand dollars, and one hundred and fifteen dollars per capita per annum for each person actually present over a daily average of five hundred and seventy inmates each month; which sum is hereby appropriated out of any money in the treasury not otherwise appropriated. Said excess amount to be approved by the board of state charities. Repairs, seven thousand dollars. *Specific.* Additional maintenance for 1905, eight thousand dollars, to be available July 1, 1905; new boilers, radiators and connections, eight thousand dollars; heating and equipping new hospital, seven hundred dollars; drying sheds, brick kilns and machinery, one thousand dollars; library fund for books and cases, five hundred dollars; new vegetable cellar, five hundred dollars; new bakery, two thousand dollars; fire hose and asbestos covering,

one thousand dollars; wire stitcher, type cabinet and type, five hundred dollars; cement sidewalks, one thousand dollars; one water pressure pump, one thousand dollars; purchase of additional land, six thousand and six hundred dollars.

Industrial School for Girls and Woman's Prison.

For the Industrial School for Girls and Woman's Prison, at Indianapolis: *Regular.* Maintenance, thirty-eight thousand dollars; repairs, three thousand dollars; discharge, clothing and parole, seven hundred dollars; library, three hundred dollars. *Specific.* Repairs on heating plant, six thousand dollars.

Industrial School for Girls.

For the Industrial School for Girls. When removed to a new site, maintenance at the rate of two hundred dollars per capita per annum for each inmate based on the daily average number actually present each month, which shall be certified by the Indiana board of state charities, which sum is hereby appropriated out of any money in the treasury not otherwise appropriated.

Indiana Reformatory.

For the Indiana Reformatory: *Regular.* Maintenance, one hundred and eight thousand dollars, and seventy dollars per capita per annum for each person actually present over a daily average number of nine hundred inmates each month; which sum is hereby appropriated out of any money in the treasury not otherwise appropriated. Said excess amount to be approved by the board of state charities. Repairs, five thousand dollars; trade schools, fifteen thousand dollars; library and amusements, five hundred dollars; schools, six thousand dollars; paroled and discharged prisoners, twelve thousand dollars; supervision of paroled prisoners and rewards, three thousand dollars. *Specific.* Trade schools, eight thousand dollars, to be available April 1, 1905; school of letters, three thousand dollars; paints, two thousand dollars; new boilers, five thousand dollars; new engine and dynamo, five thousand dollars; new solitary cells and building, four thousand and five hundred dollars; paving streets, one thousand dollars; extra wall and paving drill grounds, three thousand dollars; laundry machinery, two thousand dollars; repairing roof, two thousand dollars.

Indiana State Prison.

For the State Prison: *Regular.* Maintenance, one hundred thousand dollars; repairs, five thousand dollars; discharged prisoners, three thousand and five hundred dollars; paroled prisoners and supervision, six thousand and five hundred dollars; criminal insane, two thousand and eight hundred and eighty dollars;

library, five hundred dollars. *Specific.* Reimbursement maintenance account, 1905, five thousand and five hundred and twenty [dollars] and fifty-nine cents, to be available July 1, 1905; cold storage, four thousand and five hundred dollars; repairing wall, one thousand dollars; blankets and bedding, one thousand and two hundred dollars; two 200-horse-power water tube boilers, five thousand and three hundred dollars; factory building, ten thousand and two hundred dollars; store room, nineteen thousand and five hundred dollars; dining room, fifteen thousand and five hundred dollars; chapel, nine thousand and eight hundred dollars; cell house, ninety-two thousand dollars, sixty thousand dollars of this last named amount to be available November 1, 1905, and thirty-two thousand dollars available November 1, 1906.

PUBLIC BUILDINGS AND DEPARTMENTS.

Soldiers' and Sailors' Monument.

For the Soldiers' and Sailors' Monument: *Regular.* Management and maintenance, twelve thousand dollars. *Specific.* Repairs and incidental expenses, nine hundred and five dollars.

Executive Department.

For the Executive Department: *Regular.* Salary of governor, eight thousand dollars; salary of secretary to the governor, twenty-four hundred dollars; salary of governor's clerk, twelve hundred dollars; salary of governor's messenger, one thousand dollars; rent of governor's residence, eighteen hundred dollars; governor's office expense, one thousand dollars; governor's civil and military contingent fund, ten thousand dollars; emergency contingent fund, thirty thousand dollars; salary of the lieutenant-governor, one thousand dollars.

Secretary of State.

For the Department of State: *Regular.* Salary of secretary, six thousand and five hundred dollars; salary of deputy secretary, twenty-four hundred dollars; salary of clerk, one thousand dollars; salary of stenographer and messenger, six hundred dollars; salary of clerk of bureau of printing and stationery, fifteen hundred dollars; salary of additional stenographer, six hundred dollars; office expense fund, six hundred dollars; distribution of supreme and appellate court reports, two hundred and fifty dollars; foreign corporation department, two thousand dollars; distribution of documents, two hundred and fifty dollars. *Specific.* Distribution of documents, 1906, six hundred dollars; stairway, and caring for supreme and appellate court reports, one thousand

dollars; adding machine, three hundred and seventy-five dollars; safe, five hundred dollars; for enforcement of automobile law requiring registration with secretary of state and other provisions of said law, twelve hundred dollars per annum, or so much thereof as may be necessary, said appropriation to be available at once.

Auditor of State.

For the Department of Auditor of State: *Regular.* Auditor's salary, seven thousand and five hundred dollars; salary of deputy, twenty-five hundred dollars; salary of insurance clerk, eighteen hundred dollars; salary of deputy insurance clerk, one thousand dollars; salary of insurance actuary, two thousand dollars; salary of land clerk, eighteen hundred dollars; salary of settlement clerk, sixteen hundred dollars; salary of stenographer, seven hundred and twenty dollars; salary of additional stenographer, seven hundred and twenty [dollars], and four hundred and twenty dollars, available April 1, 1905, said last amount to be specific; office expenses, fifteen hundred dollars; for additional office expense for the year 1905, three hundred dollars, to be immediately available.

Treasurer of State.

For the Department of Treasurer of State: *Regular.* Salary of treasurer of state, six thousand and five hundred dollars; salary of deputy treasurer, two thousand dollars; salary of clerk, seven hundred and twenty dollars; office expenses, three hundred dollars.

Attorney-General.

For the Department of the Attorney-General: *Regular.* Salary of attorney-general, seven thousand and five hundred dollars, and traveling expenses when in the discharge of the duties as attorney-general for the state, whether in person or by deputy or assistant; salary of assistant attorney-general, twenty-four hundred dollars; salary of deputy, two thousand dollars; salary of assistant deputy, eighteen hundred dollars; salary of traveling deputy, eighteen hundred dollars; salary of stenographer and bookkeeper, nine hundred dollars; salary of additional stenographer, seven hundred and twenty dollars; office expenses, seven hundred and fifty dollars. *Specific.* For protecting the state in cases of escheats and other cases, one thousand dollars, this appropriation to be annually.

Supreme Court.

For the Supreme Court: *Regular.* Salaries of the judges of the supreme court, thirty thousand dollars, and five hundred dollars annually to each of the judges of the supreme court for stenographic and clerical work in the preparation of their opinions, the same to be paid on the order of the supreme court to the

persons doing such work; salary of sheriff of supreme court, six hundred dollars; salary of law librarian, eighteen hundred dollars; salary of messenger of supreme court and assistant librarian, twelve hundred dollars, to be paid only on order of the supreme court; purchase of books for the law library, two thousand dollars; library, office and chambers expenses of supreme court, two thousand dollars.

Appellate Court.

For the Appellate Court: *Regular.* Salaries of the judges of the appellate court, thirty-six thousand dollars; and two thousand and one hundred and sixty dollars for stenographic and clerical work in the preparation of their opinions, the same to be paid on the order of the appellate court to the persons doing such work; salary of messenger of the appellate court, seven hundred and twenty dollars, to be paid only on the order of the appellate court; office and chambers expenses of the appellate court, fifteen hundred dollars.

Clerk of Supreme Court.

For the Clerk of the Supreme and Appellate Courts: *Regular.* Salary of clerk, five thousand dollars; salary of deputy clerk, eighteen hundred dollars; salary of assistant clerk, twelve hundred dollars; salary of record clerk, nine hundred dollars; salary of copy clerk, seven hundred and fifty dollars; office expenses, eight hundred and fifty dollars; fee clerk, six hundred dollars; fund for collecting delinquent fees, five hundred dollars, to be expended upon the order of the court in which the fee is taxed. *Specific.* For file cases, two thousand five hundred dollars, or so much thereof as may be necessary, to be expended under the direction of the clerk of the supreme court, the chief justice of the supreme court and the chief judge of the appellate court. Additional clerk, six hundred dollars; fund for collecting delinquent fees, five hundred dollars. *Specific.* File cases, two thousand dollars.

Reporter Supreme and Appellate Courts.

For the Reporter of the Supreme and Appellate Courts: *Regular.* Salary of the reporter, five thousand dollars; salary of assistant reporter, eighteen hundred dollars; salary of second assistant, one thousand dollars; salary of stenographer, seven hundred and twenty dollars; current expenses, one hundred and fifty dollars.

Superior Courts.

For the Superior Courts. *Regular.* For so much of the salaries of the superior court judges as may be required by law to be paid out of the state treasury, the sum of twenty-seven thousand and five hundred dollars.

Circuit Judges and Prosecutors.

For the Circuit Courts: *Regular.* Salary of the circuit judges at a salary as fixed by law, the sum of one hundred and sixty-five thousand dollars; salaries of the prosecuting attorneys at a salary of five hundred dollars each per annum, the sum of thirty thousand dollars.

Superintendent of Public Instruction.

For the Office of the Superintendent of Public Instruction: *Regular.* Salary of superintendent, three thousand dollars; salary of deputy, fifteen hundred dollars; salary of assistant, two thousand dollars, and one thousand dollars for assistant, to be available April 1, 1905; salary of clerk, twelve hundred dollars; salary of stenographer, seven hundred and twenty dollars; office expenses, one thousand dollars; traveling expenses, one thousand dollars; five hundred dollars, to be available April 1, 1905, for additional traveling expenses for the year 1905; two hundred and two dollars and thirty-eight cents, to meet deficit in expense fund for year 1905.

State Library.

For the State Library: *Regular.* Salary of librarian, eighteen hundred dollars; salary of reference librarian, eleven hundred dollars; salary of cataloger, eleven hundred dollars; salary of assistant cataloger and stenographer, nine hundred dollars; salary of custodian and messenger, seven hundred and twenty dollars; books and binding, three thousand dollars; fund for cabinets, three hundred dollars; office expense and distribution, twelve hundred dollars. *Specific.* Rebinding fund, available April 1, 1905, one thousand dollars; additional service and reorganization, three thousand dollars available April 1, 1905, and three thousand dollars available November 1, 1906; additional shelving, seven thousand and five hundred dollars, one-half of this last named amount to be available November 1, 1905, and one-half November 1, 1906; for copying early journals needed in the state library, five hundred dollars; this last named item is in lieu of an appropriation heretofore made, available November 1, 1904, in the sum of one thousand dollars for reprinting early laws and journals needed in the state library, said appropriation of one thousand dollars not having been used is hereby repealed; said appropriation of five hundred dollars above made shall be immediately available.

Adjutant-General.

For the Adjutant-General: *Regular.* Salary of adjutant-general, two thousand and two hundred and fifty dollars; salary of clerk, nine hundred dollars; salary of stenographer, six hundred

dollars; salary of quartermaster-general, twelve hundred dollars; Indiana militia, seventy-five thousand dollars.

Bureau of Public Printing, Etc.

For the Bureau of Public Printing, Binding and Stationery: *Regular.* For public printing, advertising and stationery, as ordered by the bureau of public printing and stationery, to be drawn and paid out on its order, fifty-five thousand dollars for the fiscal year ending October 31, 1906, and the further sum of sixty-five thousand dollars for the fiscal year ending October 31, 1907. And said board shall cause to be published not to exceed fifteen hundred volumes of any issue of the supreme court reports and not to exceed twelve hundred volumes of the appellate court reports, and for the publication of said reports the sum of five thousand dollars, or so much thereof as may be necessary, is hereby appropriated for the fiscal year ending October 31, 1906, and five thousand dollars for the fiscal year ending October 31, 1907: *Provided,* That so much as may be possible for the printing of these reports shall be expended from the regular appropriation for public printing: *And, provided further,* That the secretary of state shall only deposit in the law library of the supreme court the number of copies of each volume of said reports required by the supreme court, not exceeding the number now provided by law, and the volumes not so deposited shall be sold by the secretary of state in the manner and at the price now provided by law, and shall file an itemized report quarterly of such sales with the auditor of state, under oath, showing the names of the person, firm or corporation to whom sold, and the amounts received from each person, firm or corporation, and shall pay all money received therefor into the state treasury as now provided by law, and said bureau of public printing shall also publish the bulletins and annual reports of the board of state charities and of the state horticultural society: *Provided,* Any unexpended balance for printing for 1906 shall be available for 1907.

Bureau of Statistics.

For the Bureau of Statistics: *Regular.* Salary of the chief of the bureau, two thousand dollars; salary of the deputy chief, fifteen hundred dollars; salary of stenographer, seven hundred and twenty dollars; office expense, twelve hundred and eighty dollars; for the employment of such clerk hire as may be necessary in the office of the bureau of statistics, sixteen hundred dollars; for the salary and expenses of agents of the bureau of statistics to collect information on labor, mining, manufacturing, etc., twenty-four hundred dollars: *Provided,* That the money paid to collect such information shall be drawn only upon the

specific itemized vouchers signed by the chief of the bureau of statistics: *And provided further*, That the chief of said bureau may at his discretion have printed from time to time such matter in bulletin form as he may deem important, and that the same shall be paid for out of any funds appropriated for expenses of this bureau.

State Geologist.

For the Department of Geology and Natural Resources: *Regular.* Salary of geologist, two thousand and five hundred dollars; salary of geologist's clerk, seven hundred and twenty dollars; salary of custodian and messenger, six hundred dollars; expenses of the department, three thousand and eight hundred dollars.

Factory Inspector.

For the Department of Inspection: *Regular.* For salaries, seven thousand and nine hundred dollars; traveling expenses, two thousand and seven hundred and fifty dollars; office expenses, six hundred and fifty dollars.

Oil Inspector.

For the Oil Inspection Department: *Regular.* For salary of supervisor, two thousand and five hundred dollars; office expense, nine hundred dollars. *Specific.* For additional office expenses for the year 1905, one hundred and seventy-five dollars, to be immediately available.

Commissioner of Fisheries and Game.

For the Commissioner of Fisheries and Game: *Regular.* Expenses, seven thousand and five hundred dollars; salary of commissioner, twelve hundred dollars; traveling expense, eight hundred dollars.

State Veterinarian.

For the State Veterinarian: *Regular.* Salary and expenses, three thousand dollars.

Custodian of Public Buildings.

For the Custodian of Public Buildings and Property: *Regular.* Salary of custodian, fifteen hundred dollars; salaries of assistants, fifteen thousand and three hundred and sixty dollars, as follows: One assistant custodian, nine hundred dollars; one clerk, nine hundred dollars; one foreman of janitors, seven hundred and eighty dollars; three policemen, seven hundred and eighty dollars each; one carpenter, seven hundred and twenty dollars; one tinner or roofman, seven hundred and twenty dollars; and fifteen

janitors or laborers, six hundred dollars each; all such assistants to be paid on separate vouchers certified by the custodian and by individual warrant in favor of each assistant. Repair and supply fund, five thousand dollars; water fund, two thousand and eight hundred dollars; illuminating fund, three thousand and five hundred dollars for the fiscal year beginning November 1, 1905, and four thousand and five hundred dollars for the fiscal year beginning November 1, 1906; flags and decorations, one hundred and fifty dollars. *Specific.* Additional illuminating fund to pay deficiency for the year 1903, one thousand and three hundred and fifty-one dollars and seventy-three cents, this amount to be available April 1, 1905; regilding dome, one thousand dollars, available on April 1, 1905; frescoing, five thousand dollars for fiscal year beginning November 1, 1905, and five thousand dollars for the fiscal year beginning November 1, 1906; revarnishing outside doors, one thousand dollars, to be available April 1, 1905; cement walks, one thousand dollars.

Engineer of State House.

For the Engineer of the State House: *Regular.* Salary of chief engineer, fifteen hundred dollars; heating, seven thousand dollars; salaries of assistants, five thousand and three hundred and forty dollars; repairs, two thousand and two hundred and fifty dollars. *Specific.* New elevator, three thousand and eight hundred and fourteen dollars; repair fund (additional) available April 1, 1905, two hundred and fifty dollars.

State Board of Education.

For the State Board of Education: *Regular.* Three thousand dollars.

State Board of Forestry.

For the State Board of Forestry: *Regular.* Salaries of members of board, four hundred dollars; salary of secretary, eighteen hundred dollars; office and traveling expense, one thousand dollars; salary of clerk, six hundred dollars. *Specific.* Forest cultivation, 1,200 acres, three thousand and six hundred dollars, one-half of this amount to be available November 1, 1905, and one-half November 1, 1906; preparation and planting of 400 acres of fields to seeds, one thousand and four hundred and forty dollars, one-half of this amount to be available November 1, 1905, and one-half available November 1, 1906; cultivation of 600 acres per season, eighteen hundred dollars, one-half of this amount to be available November 1, 1905, and one-half November 1, 1906; main road, $3\frac{1}{2}$ miles, nine hundred and fifty dollars, this amount to be available August 1, 1905; construction of five reservoirs, two hundred and

fifty dollars, this amount to be available August 1, 1905; border line fences, three hundred and fifty dollars, this amount to be available August 1, 1905; building improvements, northeast part of reservation, eight hundred dollars; building improvements, northwest part of reservation, four hundred and fifty dollars, this amount to be available November 1, 1906; building improvements, south central part of reservation, five hundred and fifty dollars, this amount to be available November 1, 1906.

State Board of Health.

For the State Board of Health: *Regular.* Salary of the secretary of the state board of health, who is also state health officer and state food commissioner, twenty-four hundred dollars: *Provided,* That he does not practice medicine or actively engage in any other profession or occupation, but gives to the board his full time in performance of his duties as such secretary. For the chief clerk of vital statistics, one thousand dollars; for attending the quarterly meetings of the state board of health, to each of the members of such board except the secretary, the sum of ten dollars for each of said meetings; for other expenses, such as office expenses, impure food, pollution of streams and preventing the spread of contagious and infectious diseases, the sum of ten thousand dollars: *Provided,* That money for such expenses of the state board of health shall be drawn only upon specific itemized vouchers signed by the president and secretary of said board.

State Board of School Book Commissioners.

For the State Board of School Book Commissioners: *Regular.* One thousand dollars.

Board of State Charities.

For the Board of State Charities: *Regular.* Expenses of the board, eight thousand dollars; expenses of publishing quarterly bulletin and annual reports to be paid by the bureau of public printing, binding and stationery, which arrangement for printing said bulletins and reports shall begin upon request of said board of state charities; to carry out the dependent children's act, six thousand dollars; for transportation of dependent children, one thousand dollars, to be repaid by the several counties according to section 9 of dependent children's act.

Tax Commissioners.

For the State Board of Tax Commissioners: *Regular.* Salaries, four thousand dollars; expenses of members, two thousand dollars.

Labor Commission.

For the Labor Commission: *Regular.* Salaries, office and traveling expenses, five thousand dollars.

Public Library Commission.

For the Public Library Commission: *Regular.* Organization, instruction, books and collections of books, and equipment for traveling libraries and publication, seven thousand dollars.

Academy of Science.

For the Academy of Science: *Regular.* For the printing of the report of the Indiana academy of science, six hundred dollars: *Provided,* Any unexpended balance for 1906 shall be available for 1907.

State Dairymen's Association.

For State Dairymen's Association: *Regular.* Five hundred dollars.

State Horticultural Society.

For the Horticultural Society: *Regular.* Twenty-six hundred dollars: *Provided,* That the bureau of public printing, binding and stationery is directed to cause to be printed annually one thousand copies of the report of the society in the same manner as other state reports.

Inspector of Mines.

For the Inspector of Mines: *Regular.* Salary of the inspector, fifteen hundred dollars; salary of the assistant inspector, one thousand dollars; salary of the clerk and stenographer, six hundred dollars; expenses of the inspector of mines and his assistants, fifteen hundred dollars.

Supervisor of Natural Gas.

For the Supervisor of Natural Gas: *Regular.* Salary of the supervisor, twelve hundred dollars; expenses of supervisor, one thousand dollars; assistants to the supervisor, one thousand dollars.

SPECIFIC ITEMS.

Epileptic Hospital Commission.

For the commission to visit epileptic hospitals and colonies, by authority of the last general assembly, and to make report thereon to this general assembly, as follows: Senator Marshall Newhouse, one hundred and thirty-five dollars; Senator Harmon Purviance,

one hundred and thirty-five dollars; Representative Ele Stansbury, one hundred and eight dollars; these amounts to be immediately available.

Indianapolis Water Company.

For the Indianapolis Water Company, fifty dollars, for one year's rental of a fire hydrant maintained by the institution for the education of the deaf for the year ending October 31, 1900.

Firemen's Fund Insurance Company.

For the Firemen's Fund Insurance Company of San Francisco, California, one hundred and fifty-two dollars and eighteen cents, the same being for a correction of overpayment of insurance taxes, the same to be immediately available.

Western Construction Company.

For the Western Construction Company, contractors, for the improvement of State street from Ellsworth street to the center line of College avenue, in the town of West Lafayette, Indiana, five thousand and six hundred and forty-five dollars and twelve cents, this amount to become available July 1, 1905.

Western Construction Company.

For the Western Construction Company, for the improvement of that part of the roadway of Southeastern avenue in the city of Indianapolis, which lies along the lands of the institution for the education of the deaf, under a contract with the authorities of the city of Indianapolis, nine thousand and seven hundred and thirty-two dollars and forty-seven cents, to [be] paid to said Western Construction Company in full satisfaction of the claim of said company for said improvement, and only upon the release of any claim or lien that said Western Construction Company has or may claim to have against said land for such improvement, in the proper records of the board of works of the city of Indianapolis, or any other records of said city or the county of Marion where any evidence of such claim may be; this item to be immediately available.

Fee Clerk of Supreme Court Clerk.

For the salary of the fee clerk in the office of the clerk of the supreme court, to be available April 1, 1905, three hundred and fifty dollars; for collection of fees to be expended under the direction of the court in which the fees are taxed, to be available April 1, 1905, three hundred dollars.

Tax Commissioners.

For additional traveling expenses of the two state tax commissioners appointed by the governor, six hundred dollars, to be available July 1, 1905.

Office of Auditor of State.

For the purchase and placing file cases for use in the office of the auditor of state, six hundred dollars, to be available July 1, 1905.

Office of Custodian.

To prevent deficit in water and light fund for the state house for the year 1905, thirteen hundred dollars, or so much thereof as may be necessary, to become available October 1, 1905, to be paid upon the order of the custodian of the state house.

Commission to Codify Mining Laws.

For the commission to codify mining laws, as follows: William H. Zimmerman, balance to date of passage of this bill, eighty dollars; to J. C. Kolsem, for same purpose, eighty dollars; to James Cantwell, for same purpose, eighty dollars; to J. C. Heenan, eighty dollars; these items to be immediately available.

James T. Clark.

To Dr. James T. Clark, one hundred and ninety-six ($196.00) dollars for services rendered in 1898 during the war with Spain in examining 196 recruits from Hammond, Chicago, East Chicago and Valparaiso, which examination was made at the request of Charles F. Griffin, recruiting officer, and that John Jordan, captain of company A, 161st Indiana volunteers, and acting as such captain, under the direction of Governor Mount, and said recruiting officers, made such request, the same to be immediately available.

Charles F. Long.

To Charles F. Long, deputy state mine inspector, two hundred and forty-one dollars, for expenses incurred in connection with his office during the years 1899 and 1900 not heretofore paid, for the reason that the general appropriation for expenses of the mining bureau became exhausted; this amount to be available July 1, 1905.

Railroad Commission.

For railroad commission for council fees and necessary expenses in litigation incurred under the direction of the attorney-general, to be paid out upon vouchers prepared by the commission and approved by the attorney-general, the sum of three thousand ($3,000.00) dollars annually, or so much thereof as may be necessary; available May 1, 1905, and May 1, 1906.

Marion County Construction Company.

To the Marion County Construction Company of the city of Indianapolis, one hundred and seventy-three dollars and twenty-two cents, for the improvement of the roadway of Ohio street in the city of Indianapolis in front of the grounds belonging to the State of Indiana and occupied and used by the state for its state capitol building. This sum to be paid only upon entering satisfaction of said claim on the proper records of the city of Indianapolis and Marion county.

Legislative Manual.

For the compilation by the state librarian and publication of the legislative manual for 1905, to be published through the board of commissioners of public printing and binding, such an amount as may be necessary for compiling and for printing the same under the contract for public printing and binding: *Provided,* Said amount shall not exceed the sum of fifteen hundred dollars.

Bribery Investigation.

For the use of the State of Indiana, to be expended under the direction of the governor, the sum of five thousand dollars is hereby appropriated, and the same or so much thereof as may be necessary is made available for the purpose of the investigation, apprehension, arrest and prosecution of any person or persons that may be charged with the crime of bribery of any member, officer or employe of the sixty-fourth general assembly of the State of Indiana.

Hoosier Construction Company.

To the Hoosier construction company, three thousand and two hundred and thirty-four dollars and twenty-four cents to pay for the improvement of Michigan street, in the city of Indianapolis, in front of the industrial school for girls and woman's prison, owned by the state, which sum is made available July 1, 1905, and shall not be paid until said Hoosier construction company shall enter satisfaction of its claims in full for said improvement in the proper records of the city of Indianapolis and Marion county.

John T. Taylor.

To John T. Taylor, late corporal in the military service of the State of Indiana, the sum of $2,500 for injury received while in the discharge of his duty firing minute guns at the funeral of the late S. R. Foster, had his right arm shattered by the premature explosion of a cannon, said amount to be in full payment, compromise and settlement for said injury and expenses incurred by reason thereof.

Printing Codification Bills.

For cost of printing two thousand sets of the six bills reported from the codification commission for distribution over the state, four thousand seven hundred sixty-six dollars and sixty-nine cents; for cost of printing five hundred copies of the index to the same, fifty-two dollars and fifty-nine cents.

Warrants, Vouchers, Etc.

In all cases where specific salary or compensation is named in any of the preceding sections of this act for a deputy, assistant, typewriter, clerk, or other subordinate or employe, the same shall be paid directly to and receipted for by such deputy, assistant, typewriter, clerk or other subordinate or employe, who shall make and file an affidavit that he has actually performed the service for which said salary is attached, and that no part thereof has been or is to be directly or indirectly divided with or paid to any other person on account of or by reason of such employment.

No voucher for maintenance shall be payable to any institution or department in advance.

No monthly warrant for maintenance shall be issued to any department or institution unless the receipts of said department or institution shall have been covered into the state treasury for the month preceding, unless otherwise provided by statute.

No appropriation herein made to, for or on behalf of any benevolent, charitable or educational institution, the title to any part of whose real estate or other property is not in the State of Indiana, shall be available or shall be paid nor shall any warrant for any such appropriation or any part thereof be issued until the board of trustees or other officers or persons holding the legal title to such property shall have conveyed all of such property, the title to which is not now in the State of Indiana, to the State of Indiana for the use and benefit of such institutions respectively by proper deed or deeds of conveyance or bill of sale, to the approval of the auditor of state, and shall have delivered such deed or deeds or bill or bills of sale to the auditor of state for and on behalf of the State of Indiana, and the auditor of state is hereby directed not to deliver any such warrant to any person for or on behalf of any such institution until after such deed or deeds, bill or bills of sale shall have been duly executed and acknowledge and delivered to him for the state for the uses above mentioned.

With the exception of the chief executive office of the state, the office of each and every department of government, appropriations for conduct of which are provided in this act, shall be opened for business continuously from eight o'clock a. m. until five o'clock p. m. of each working day, and this section shall be operative from and after taking effect of this act.

The custodian of public buildings and property out of the appropriation in this act provided for assistants to the custodian shall provide a clerk who shall be a competent copyist and his services shall be available for indexing, recording or any other clerical work in any of the state offices where he may be temporarily required.

In the purchase of all supplies that enter into the maintenance of any of the institutions covered by this appropriation bill, it shall be the duty to invite competitive bids through sealed proposals to the president of the board of each institution affected by this proviso, and the lowest and best bidder shall be awarded the contract, and the same provision shall apply to the structure and equipment of all buildings provided for in this act.

Whenever it is provided by statute that the salary of any officer, clerk or employe, for which an appropriation is herein made, shall be in excess of the amount herein appropriated, such officer, clerk or employe shall receive such salary as is provided by such statute and such amounts as is necessary to pay such excess over and above the amount herein provided for is hereby appropriated, and whenever in this act an amount for any salary of any officer, clerk or employe is appropriated and the same is in excess of such salary as fixed by statute the amount herein appropriated shall be in lieu of such salary as fixed by such statute and should there be any officer whose salary is fixed by statute and no appropriation for the same is herein specifically made, the amount so fixed by statute is herewith appropriated to pay such salary.

All amounts herein specifically appropriated to reimburse funds herein specifically made shall be credited to such funds, respectively, and bills paid out of such funds to be reimbursed shall only be allowed and paid on the sworn statement of the officer making such expenditures, and after his voucher for the same, with such sworn statement, shall have been filed with the auditor of state.

Fiscal Year 1906-07.

SEC. 3. For the fiscal year beginning November 1, 1906, and ending October 31, 1907, there is hereby appropriated the same several amounts for the same several purposes and to the same several offices, officers and institutions upon the same terms and conditions and subject to the several duties, directions and limitations as are in the preceding section appropriated for the preceding year, except where appropriations have been made different for the different years of the biennial period covered by this act, and with the further following exceptions, to wit: Except that all appropriations herein made for new and additional buildings and machinery and for the repairs of such new and additional buildings and machinery, or for the furnishing of the same other than current expenses, and all specific appropriations of any nature what-

ever, shall be considered exceptions, and shall be governed by the specific provisions of the preceding sections: *Provided*, That in all cases where the appropriation herein made for the salary of any deputy, clerk, stenographer, or employe of any officer of the state in [is] an increase and in excess of that appropriated for such deputy, clerk, stenographer or employe by the general appropriation act of the general assembly of 1903, such excess shall become available on and after April 1, 1905, to be paid out as earned, and such sum as amounts to such excess is hereby specifically appropriated.

Warrants—Reports of Fees Collected.

SEC. 4. Before any warrant for payment of salaries as herein provided and appropriated shall be issued to the secretary of state, auditor of state, attorney-general, clerk of the supreme court, or any other official charged with the collection of fees belonging to the state on account of incorporation and docket fees, commissions, certified copies of official records, opinions or papers, insurance, building and loan, bank examination, land and interlocking switch fees and taxes, certificates, costs in appeals, or any other fees, commissions or taxes collected and received by such state officials for the state, such officer shall file an itemized and verified statement showing the amounts received by him or his office for the preceding quarter, and pay the same into the state treasury. Such statement shall be filed with the auditor of state, except that of the auditor of state, which shall be filed with the treasurer of state, and no warrants for such salaries shall be issued by the auditor or salary paid by the treasurer until the provisions of this section shall have been complied with.

Repeal.

SEC. 5. All laws and parts of laws inconsistent with the provisions of this act are hereby repealed.

Emergency.

SEC. 6. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

Chapter 166.

AN ACT prescribing the manner of construction and alteration of theaters and other auditoriums and halls for public entertainments; prescribing the powers and duties of the chief inspector of the department of inspection in relation thereto, and providing penalties for violations thereof.

[H. 179. Approved March 7, 1905.]

Department of Inspection—Theaters—Auditoriums—Halls.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That every building hereafter erected or altered to be used as a theater, opera house, or other building intended for theatrical or operatic purposes, lectures or concerts, or public entertainments of any kind, shall be built or altered to comply with the requirements of section 2 and section 4 of this act. No building which at the time of the passage of this act is not in actual use for theatrical or operatic purposes, lectures or concerts, or public entertainments of any kind, and no building hereafter erected or altered not in conformity with the requirements of section 2 of this act shall be used for theatrical or operatic purposes, lectures or concerts, or public entertainments of any kind until the same shall have been made to conform to the requirements of section 2 of this act. No such building shall hereafter be erected or altered until a copy of the plans of said building has been deposited with the chief inspector of the department of inspection by the person causing the erection or construction of such building, or by the architect who has drawn such plans, which plans shall include therein the system or method of ventilation provided for such building, together with a copy of such of the specifications of such building as such chief inspector may require. In case any such building conforms, in the judgment of such chief inspector, to the requirements of this act, he shall issue to the owner, lessee or occupant of such building or of any portion thereof used as above mentioned, a certificate to that effect. The certificate of the inspector above named shall be conclusive evidence of a compliance with the provisions of this act: *Provided,* That after the granting of such certificate no change is made in the plans or specifications of such ways of egress, means of escape or ventilation, unless a new certificate is obtained therefor.

Exits—Doors.

Sec. 2. Every theater, opera house or other building accommodating three hundred persons shall have at least two exits. When accommodating five hundred persons, at least three exits shall be provided. Doorways of exit or entrance for the use of the

public shall be not less than five feet in width, and for every additional one hundred persons, or portion thereof, to be accommodated in excess of five hundred, an aggregate of twenty inches additional exit width must be allowed. (These doorways of exit and of entrance may be in the front all together, or in case of a theater or opera house having also an exit and an entrance directly to and from another street, through a way or passage covered or otherwise, the width of one-third of that of the widest part of the auditorium or assembly hall, some of the said doorways may be made therein, to such an extent as said entrance or passage will accommodate the same.) All doors of exits or entrances shall open outwardly, and be hung to swing in such a manner as not to become an obstruction in a passage or corridor, and no such doors shall be locked during any entertainment or when the building is open to the public. Distinct and separate places of exit and entrance shall be provided for each gallery above the first. A common place of exit and entrance may serve for the first floor of the auditorium and first gallery, provided its capacity be equal to the aggregate capacity of the outlets from the main floor and said gallery. No passage leading to any stairway, communicating with any entrance or exit, shall be less than five feet in width in any part thereof.

Stairways.

SEC. 3. Stairways serving for the exit of the audience shall be one foot in width for each one hundred persons and in no case shall the width of such stairways be less than four feet. In no case shall the risers of any stairs exceed seven and one-half inches in height, nor shall the treads, exclusive of the nosings, be less than ten and one-half inches wide. When stairs return directly on themselves, a landing of the full width of both flights, without any steps shall be provided. Stairs turning at an angle shall have a proper landing, without winders introduced at said turn. In stairs when two side flights connect with one main flight no winders shall be introduced, and the width of the main flight shall be at least equal to the aggregate width of said flights. All inclosed staircases shall have on both sides strong hand rails firmly secured in the wall about three inches therefrom, and about three feet above the stairs, but said hand rails need not run on level platform and landings where the same is more in length than the width of the stairs. All stair cases six feet and over in width shall be provided with a center hand rail of hardwood or metal not less than two inches in diameter, placed at a height of about three feet above the center of the treads, and supported on wrought iron or brass standards of sufficient strength, placed not farther than four feet apart and securely bolted to the treads or risers of

stairs, or both, and at the head of each flight of stairs, on each landing, the post or standard shall be at least six feet in height to which the rail shall be secured.

Stage Exits—Seats—Aisles.

SEC. 4. In all theaters, opera houses, or places of public amusement, where stage scenery or apparatus is used, there shall be provided two direct exterior outlets from the stage. Where dressing rooms are under stage, more than one way of escape shall be provided for each room. All seats in the auditorium, except those contained in the boxes, shall be firmly secured to the floor and no seat in the auditorium shall have more than six seats between it and aisle on either side. All aisles on the respective floors in the auditorium, having seats on both sides of the same, shall be not less than three feet wide where they begin and shall be increased in width towards the exits in the ratio of one and one-half inch to five running feet. Aisles having seats on one side only shall be not less than two feet wide at their beginning and increase in width the same as aisles having seats on both sides, but the provisions of this act shall not apply to any building now in use for theatrical or operatic purposes, but is intended to include all buildings to be hereafter erected or remodeled for theatrical or operatic purposes.

Stand Pipes—Nozzles—Water Pipes, Etc.

SEC. 5. In every building used for theatrical, operatic or other purposes, where stage scenery or apparatus is used, stand pipes of at least two inches in diameter shall be provided, with hose attachments of not less than one and one-half inches in diameter or turret nozzles one on each side of the stage, and each level, and at least one in the property room, and one in the carpenter shop, if the same be contiguous to the building. All such stand pipes shall be kept clear from obstructions. Said stand pipes shall be separate and distinct, receiving their supply of water from the city mains, and also a siamese connection on main line, and shall be fitted with the regulation couplings of the fire department, and shall be kept constantly filled with water ready for immediate use at all times during a performance in said building or buildings. Turret nozzles, or a proper and sufficient quantity of at least one and one-half inch hose, with nozzles attached thereto, fitted with the regulation couplings of the fire department, and with hose spanners at each outlet, shall always be kept attached to each hose attachment. There shall also be provided a line of water pipe, of suitable size, across the proscenium arch, to which shall be attached devices that will operate so as to make a water curtain in front or rear of the regular drop curtain. A controlling valve to turn on the water for this water curtain shall be placed on the stage at

each side of the proscenium arch. There shall also be kept in readiness for immediate use on the stage, at least two (2) casks full of water, and two (2) buckets to each cask. Such casks and buckets shall be painted red. There shall be provided one (1) fire hook and one (1) fire ax for each side of stage, and for each level. Hooks to be fifteen (15) feet in length, and, together with axes, to be hung on wall in a conspicuous place.

Exit Signs.

SEC. 6. In every building used for theatrical, operatic or other purposes, where stage scenery or apparatus is used, the word "exit" shall be painted in plain, English letters, not less than eight inches in length over each door or place of egress. Every exit shall have over the same a red light. All lights over exits in the halls, corridors, lobby or any other part of said buildings, used by the audience, except the auditorium, must be independent and controlled by a separate circuit. The switch or shut-off shall be located in the box office or manager's office and controlled only in that particular place, which lights shall remain lighted until the entire audience has left the theater.

Gradients—Fire-Proof Paint.

SEC. 7. Gradients or inclined planes shall be employed instead of steps, where the rise is not more than one foot in ten. All woodwork, including the under side of all floor boards, and all scenery used on or about the stage, shall be coated with fire-proof paint. The fire resisting qualities shall be tested and approved by the department of inspection.

Stage Flues or Ducts.

SEC. 8. There shall be over the stage of every building, where stage scenery or apparatus is used, accommodating more than five hundred people, flues or ducts extending above the highest roof which forms a part of such building, which flues and ducts shall have an area of at least one-thirtieth of the total area of such stage. The dampers for opening and closing such ducts shall be constructed so as to open instantly on the loosening, cutting or burning of a hempen cord, which shall be arranged to hold said dampers closed, or some other equally simple, approved device for opening them may be provided. These dampers shall be made of sheet metal and the ducts of incombustible material, and shall be properly insulated as regards transmission of heat to adjacent combustible substances.

Chief Inspector—Duty—Prosecutor.

SEC. 9. It shall be the duty of the chief inspector to cause this act to be enforced and to cause all violators of the same to be prosecuted, and for that purpose he is empowered to inspect all such buildings, in person or by deputy, at all reasonable hours. The prosecuting attorney of any county of this state is hereby required upon request of the chief inspector to commence and prosecute to a termination before any court of competent jurisdiction, in the name of the state, actions or proceedings against any person or persons reported to him to have violated the provisions of this act.

Construction—Architect—Penalties.

SEC. 10. Any person erecting or constructing a building, or an architect or other person who shall draw plans or specifications or superintend the erection or construction of a building, in violation of the provisions of this act, shall be punished by a fine of not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000). And if any building is constructed in violation of this act, each day that such building remains so constructed in violation thereof shall constitute a separate and distinct offense.

Violations—Penalty.

SEC. 11. Every person, firm or corporation owning or controlling any theater, opera house or place of amusement, erected or remodeled after the passage of this act where stage scenery or apparatus is used, who fails to comply with any of the provisions of sections 3, 4, 5, 6, 7 or 8 of this act shall, on conviction thereof, be fined in any sum not exceeding fifty dollars ($50.00), and each day of such violation shall constitute a separate and distinct offense.

CHAPTER 167.

AN ACT concerning highways.

[S. 77. APPROVED MARCH 8, 1905.]

LOCATION, VACATION AND CHANGE.

Highways—Petition and Notice.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana*, That whenever twelve freeholders of any county, six of whom shall reside in the immediate neighborhood of a highway proposed to be located, vacated, or a change therein made, shall petition the board of commissioners of such county for the location, vacation or change thereof, such board, if satisfied that notice of such application has been given by publication once each week

for two weeks successively in a newspaper published in the county, or by posting up notices in three of the most public places in the neighborhood of such highway, at least twenty days before the meeting of the board at which such petition is to be presented, and by the county auditor mailing a copy of such notice to the postoffice address of each land owner affected by said proceeding at the time of posting, providing such postoffice address can be ascertained by inquiry at the office of the county treasurer, shall appoint three disinterested freeholders of the county to view such highway.

Duties of Viewers.

SEC. 2. The auditor of such county shall issue a percept to the sheriff thereof, commanding him to notify such viewers of the time, place and object of their meeting. Such viewers, at such time, after having taken an oath, before some officer authorized to administer the same, faithfully to perform their duties, shall proceed to view the highway to be located, or vacated or the change to be made; and if they shall deem such location, vacation or change to be of public utility, they shall, in case of a new highway or a change in an old one, proceed to lay out and mark the same on the best ground, not running through any person's enclosure of one year's standing without the owner's consent, unless, upon examination, a good way cannot otherwise be had without departing essentially from the route petitioned for: *Provided*, That where the road is laid out upon the line dividing the lands of two persons, it shall be laid one-half on each side of such line: *And provided further*, That whenever the location of a highway is petitioned for upon and along any line which forms also the boundary of any city or town, the board of commissioners shall, for the purpose of locating such highway, have jurisdiction over the lands and lots lying within such corporate limits, and immediately affected by such proceedings and location; and the owners of such lands and lots so affected, shall have the same rights and remedies in the matter of the location, vacation or change of such highway as the owners of the lands lying on the opposite side thereof, and outside of such city or town.

Report of Viewers—Proceedings.

SEC. 3. Such viewers, or a majority of them, shall make a report of their proceedings at the ensuing session of the board of commissioners, giving a full description of such location, change or vacation, by routes [metes] and bounds, and by its course, distance and width, except that in case of the vacation of a road, or any part thereof, such description only as will designate it clearly shall be required; and, in such case, a copy of the order vacating

such highway shall be transmitted by the proper auditor to the trustee of the township or trustees of the townships in which such vacated highway is situated, who shall cause the supervisor or supervisors thereof to be notified accordingly.

No Objection—Order and Notice.

SEC. 4. If no objection be made to such proposed highway, vacation or change, such board shall cause a record thereof to be made, and, in case of such location or change, shall order the highway to be opened, and kept in repair, which order shall be transmitted to the trustee of the township or trustees of the townships in which such location or change is made; and such trustee or trustees shall cause a copy of such order to be entered at length on the township's record book or books, and notice thereof to be given to the proper supervisor or supervisors to work such highway as so located or changed.

Remonstrance for Damages—Reviewers.

SEC. 5. If any person through whose land such highway or change may pass shall feel aggrieved by reason of such location, vacation or change, such person may, at any time before final action of the board thereon, set forth such grievances by way of remonstrance under oath, stating therein that he is damaged thereby in a sum mentioned; and the said board shall thereupon appoint three disinterested freeholders of the county as reviewers, and assign a day and place for them to meet.

Reviewers—Oath and Duties.

SEC. 6. Such reviewers shall meet at the time and place designated, and take an oath faithfully to discharge the duties assigned them, and shall then, or on any other day to which a majority may adjourn, prior to the next session of such board, proceed to review the proposed highway and assess the damages, if any, which such remonstrator may sustain from such highway being opened, vacated or changed through his lands, and shall report the same to the ensuing session of such board.

Reviewers' Report—Action.

SEC. 7. If a majority of the reviewers assess and report damages in favor of the remonstrator, and the board shall consider the proposed highway, vacation or change to be of sufficient importance to the public, it shall order the costs and damages to be paid out of the county treasury; otherwise such costs and damages shall be paid by the petitioners or others interested. If a majority report against the claim for damages the remonstrator shall pay the costs. When payment of damages is made as herein provided,

such highway shall be recorded and ordered to be opened and kept in repair, as hereinbefore provided, after notice to the proper trustees.

Another Review.

SEC. 8. If it shall be made to appear to the board that the damages assessed are unreasonable, it may set aside such assessment and order another review, under the same regulations as provided in case of the first review.

New Viewers—Utility and Damages—Duties.

SEC. 9. If any freeholder of, and residing in, such county shall remonstrate against the proposed highway at any time before final action thereon, as not being of public utility, other reviewers may be appointed, who shall, after having taken an oath faithfully to discharge the duties assigned them, meet at the time and place designated and then, or on a day to be by them fixed, proceed to examine the proposed highway, and shall make report to such board at its next session, whether, in their opinion, the said highway, vacation or change will be of public utility: *Provided, however,* That a remonstrance for want of public utility and for damages may be filed at the same time, and may be referred to the same reviewers, who shall then be required to report both as to public utility and as to damages.

Action on Report.

SEC. 10. If a majority of the reviewers last named report against the public utility of such highway, vacation or change, the petition shall be dismissed; but if they report favorably thereto, the remonstrator shall pay the cost of the review, and, in case of a location or change, the highway shall be recorded and ordered to be opened and kept in repair: *Provided, however,* That an appeal shall lie to the circuit court from any such order dismissing such petition or ordering such highway established, as provided in section one hundred and two of this act.

Damages—Payment.

SEC. 11. No such highway shall be opened, worked or used, until the damages assessed therefor shall be paid to the persons entitled thereto, or deposited in the county treasury for their use, or until such persons shall give their consent thereto in writing, filed with the auditor of such county.

Costs—Bond.

SEC. 12. Whenever any petition for the location, vacation or change of any public highway has been presented to the board of

commissioners of any county in this state, and such board shall have appointed viewers for the same, and such viewers shall have reported that they deem the proposed location, vacation or change of such highway of no public utility, then no second or subsequent petition for the location, vacation or change of such highway shall be acted upon by the commissioners, unless the petitioners shall first file with the county auditor a bond with surety to be approved by him, conditioned that such petitioners will pay all costs in the case if the viewers to be appointed to view such proposed location, vacation or change of such highway, shall report that they deem the same to be of no public utility.

Who Can Not Be Viewers.

SEC. 13. No person owning lands, or who is related by consanguinity, within the sixth degree, to any person owning lands, along any highway proposed to be opened, vacated or changed shall be competent to act as viewer, or reviewer thereof.

Fences—Removal—Notice.

SEC. 14. Whenever any public highway shall have been laid out through any inclosed land, the supervisor shall give the occupant of such land, or the owner, if a resident of the road district, sixty days' notice in writing, to remove his fences; but such owner or occupant shall not be compelled to remove any such fence between the first day of April and the first day of November; and if such fence is not removed pursuant to such notice, such supervisor shall cause the same to be done at such owner's expense, which may be recovered in an action by the supervisor, in the name of the township trustee, before any justice of the peace in the county, and, in case of recovery, the judgment shall also include costs and attorney's fees.

Highways by Use—Width—Recording.

SEC. 15. All highways heretofore laid out according to law, or used as such for twenty years or more, shall continue as located and as of their original width, respectively, until changed according to law; and hereafter no highway shall be laid out less than thirty feet wide, and the order for the laying out of the same shall specify the width thereof. The board of commissioners shall have power to cause such of the roads used as highways as shall have been laid out, but not sufficiently described, and such as have been used for twenty years, but not recorded, to be ascertained, described and entered of record. Such action of the board shall be on petition filed by one or more resident freeholders of the county, of which petition notice shall be given by posting in three public places along the line of such road twenty days before the

session at which such petition shall be considered. And such board shall declare and establish the width of any such highway, which width shall not be less than thirty feet; and where any such highway shall be located upon a line dividing the lands of different owners, one-half thereof shall be taken from the land of each owner.

Non-User of Highway.

SEC. 16. Every public highway already laid out, or which may hereafter be laid out, and which shall not be opened and used within six years from the time of its being so laid out, shall cease to be a highway for any purpose whatever; but if any distinct part thereof shall have been opened and used within six years, such part shall not be affected by the provisions of this section, nor shall this section be applied to streets and alleys in any city or town.

Petition to Change Location—Notice.

SEC. 17. Any person through whose land any highway heretofore located and established, or hereafter to be located and established, may run, may petition the board of commissioners of the proper county for permission to change the location of such highway on his land, or on the lands of any other person consenting thereto. Every such petitioner shall give notice of his intention to file such petition, by posting written or printed notices thereof, in three or more public places in the vicinity of such proposed change, for twenty days before the first day of the term of the board at which such petition is to be presented.

Viewers on Relocating—Duties.

SEC. 18. Upon the filing of such petition, and proof of notice as provided for in the preceding section, the board of commissioners shall appoint three disinterested freeholders of the county as viewers, who shall meet at such time as the board may appoint, and, after having been duly sworn, or affirmed, shall then, or on any other day to which the majority may adjourn prior to the next session of such board, proceed to view the premises; and they, or a majority of them, shall report the respective lengths of the established and proposed highway, and the situation of the ground along each, and whether, in their opinion, the public would be materially injured by such proposed change, and shall file their report with the board of commissioners at its next session thereafter.

Report—Remonstrance—Proceedings—Costs.

SEC. 19. Upon the filing of such report, and before action thereon, if the report be favorable to such change, any freeholder may file his remonstrance against the same, stating therein the reasons why such change ought not to be made, and an issue may be made thereon; and if the report of the viewers be unfavorable to such change, the petitioner may make an issue thereon, and any such issue shall be tried before the board of commissioners, as other issues of fact are tried; and if, upon the report of the viewers, or upon any issue tried as above, the board shall be of opinion that the public will not be materially injured by such proposed change, it shall make an order granting permission to the petitioner to make such change, and upon satisfactory proof, then or thereafter, that the new road has been opened and improved, and made equally convenient for travelers, the board shall make an order vacating so much of the former highway as lies between the different points of intersection. All the costs of such proceeding shall be paid by the petitioner: *Provided*, That when a remonstrance is filed, and the issue found against the remonstrant, he shall pay all the costs occasioned by such remonstrance.

Compensations—Viewers—Surveyors.

SEC. 20. Viewers and reviewers, for each day engaged in viewing or reviewing a highway by order of any board of commissioners, shall receive two dollars. Surveyors, for their services in locating highways, will receive two dollars and fifty cents a day, and five cents for each mile necessarily traveled; and for making out a complete report of survey of such highway, one dollar, and, in case the survey exceed five miles, two dollars. Chainmen and axmen employed in such surveys will each receive one dollar and fifty cents a day.

Two or More Counties—Petition—Proceedings, Etc.

SEC. 21. In case of the proposed location, vacation or change of a public highway, extending into two or more counties, jurisdiction as to all the proceedings shall be in the board of commissioners of the county before whom the petition is first filed; and such proceedings shall be the same as those hereinbefore provided for in case of the location, vacation or change of a public highway in one county, so far as the latter are applicable,—except that the petition shall be signed by not less than twenty-four freeholders of one or more of the counties into which such highway proposed to be located, vacated or a change therein made, is to extend, six of whom shall reside in the immediate neighborhood of the proposed highway, and not less than three of whom shall reside in each of such counties; except, also, that each set of

viewers or reviewers to be appointed shall be equal in number to the number of the counties to be affected, and one of whom shall be appointed from each of such counties; and in case the number of such viewers or reviewers shall be even and they cannot agree, the viewers or reviewers so appointed shall select another who shall perform the same duties and receive the same fees as the viewers or reviewers first appointed. Costs and damages shall be paid as in case of proceedings for the location, vacation or change in a highway in one county; but the county having jurisdiction of the proceedings shall be entitled to recover from each of the other counties a proportionate amount of the expenses paid out of its treasury according to the proportion of the length of such highway in each of such other counties, to be recovered as any claim due from one county to another. Whenever any such highway is located, vacated or changed, a certified copy of the order therefor shall be transmitted by the auditor of the county having jurisdiction of the proceedings to the auditor of each of the other counties and entered of record in the order book of the board of commissioners of each of such counties, and a copy of the order shall be transmitted to the proper township trustees, as in case of a highway located, vacated or changed in one county.

On County Lines—Working—Proceedings, Etc.

SEC. 22. Whenever twelve freeholders of any county shall present to the board of commissioners a petition setting forth that a public highway, describing it, in their road district or districts, township or townships, is situated upon or near a county line, and has not been worked for a time to be stated, in consequence of a difference of opinion as to whose duty it was to work such highway, such board shall appoint as viewers two freeholders of the county, not belonging to the road district where such highway is required to be worked, who shall employ the county surveyor to perform the duties required by this section. The auditor of such county shall immediately, through the auditor of the other county, give notice to the commissioners of the county upon whose border such highway is situated of the filing of such petition, sending a copy of the same, and also of the appointment of such viewers; whereupon it shall be the duty of the county board thus notified to appoint two other viewers of like qualifications, and the four persons so appointed, with such county surveyor, shall meet at the time and place designated by such first board of county commissioners, and, having first been sworn according to law, shall proceed carefully to examine the condition of such highway, and, if practicable, shall locate the same upon the county line, one-half in each county. Such viewers shall make out a report of their proceedings, describing such highway by metes and bounds and showing its beginning,

termination and width. One copy of such report shall be transmitted to the board of commissioners of each county, and recorded as in case of other highways, and the proper township trustees shall each be furnished with a certified copy of the same. It is made the duty of such trustees to open and improve such highway as required by law. The said county surveyor is authorized to act with such four viewers in locating such highway; and whenever the board of commissioners of either county shall fail, refuse, or neglect to appoint viewers to act upon any petition filed according to the provisions of this section, the two viewers appointed by the other county, in connection with the county surveyor, shall proceed to discharge all the duties required of the four viewers, and their action in the premises shall have the same force and effect, and be equally binding, as the action of the four viewers.

On State Lines—Improvements—Proceedings, Etc.

SEC. 23. Whenever it may be desirable to lay out, construct or improve, by straightening, grading, draining, paving, graveling or macadamizing, any highway or any part thereof, lying on, along or near to the state line between the state of Indiana and any adjoining state, the boards of commissioners of the several counties of this state so adjoining another state shall have authority to join with the county commissioners or other proper authorities of the adjoining counties of such other state in the construction and improvement in the manner aforesaid of such highways; and such boards of commissioners are hereby authorized jointly to enter into contracts with the proper authorities in such adjoining state, for the construction and improvement of such highways. Each county shall pay such proportion of the cost of such improvement as shall be determined by and between the said board of commissioners of this state and the proper authorities of such adjoining state to be equitable and just. Such improvement shall be made by the boards of commissioners on petition by the land owners, pursuant to the laws now or hereafter in force in this state, and this section is supplemental to all the provisions of this act for the construction and improvement of highways, so far as the same can be made applicable. Any highway so constructed or improved under this section shall be free of toll and shall be perpetually kept in repair by the provisions of this act for the repair of highways; the said adjoining county or counties contributing proportionately in keeping the same in repair according to the proportions paid for the original cost thereof.

STREAMS AND WATER-COURSES.

Stream Declared Navigable—Petition.

SEC. 24. The boards of commissioners in the several counties in this state are authorized to declare any stream or water-course in their respective counties navigable, on the petition of twenty-four freeholders of the county, residing in the vicinity of the stream which it is intended to be declared navigable.

Examination of Stream.

SEC. 25. On the filing of the petition provided for in the last section, any such board shall cause an examination of the stream or water-course intended to be declared navigable to be made by some suitable person, who shall ascertain and report to the board the length of the same, and how much thereof is capable of being declared navigable, which report such board shall confirm if satisfied that the stream, if navigable, would be of public utility; and thereupon such board shall declare such stream navigable and cause the report to be recorded on the records of the board, as public highways are recorded.

Removal of Obstructions.

SEC. 26. The supervisor of the road district through which such stream or water-course, or any part thereof, may run, shall take charge thereof as a part of his general duties as supervisor of public highways; and for the purpose of keeping the same in a navigable condition he may annually call out for two days the inhabitants of such district, liable to work on the public highways, who shall work on such stream and clear out timber and other obstructions that may interfere with the navigation thereof.

Penalty for Obstructing.

SEC. 27. Any person obstructing any stream or water-course declared navigable shall be liable to the same pains and penalties as persons guilty of obstructing public highways; and the general laws governing public highways, and the laying out and working thereof in all other respects, shall, so far as applicable, govern in the defining and working of navigable water-courses.

Piers, Wharves, Etc.

SEC. 28. Any riparian owner of lands within this state bordering upon a navigable stream may build and maintain within his premises so bordering on such stream, and upon the submerged lands beneath the water thereof, piers, wharves, docks or harbors in aid of navigation and commerce, and may use, occupy and enjoy the same as appurtenant to his said lands: *Provided*, That such piers, docks and wharves shall not extend into such stream further

than is necessary to accommodate shipping and navigation, and in no case so as to obstruct the same.

Not to Affect Mills, Etc.

SEC. 29. The declaration of water-courses as navigable by county boards shall not affect any mill, dam, aqueduct, viaduct, bridge or machinery on any such stream, except in cases where the same have been abandoned for a period of twelve months.

Fund to Remove Obstructions.

SEC. 30. The boards of commissioners of the several counties shall have power to use such sums as may be appropriated from the county treasury, and as they may deem necessary, to remove obstructions from streams that have been heretofore or may be hereafter declared navigable according to law.

Caving—Notice—Fence Removal.

SEC. 31. When any public highway, running or passing along the bank of any water-course, shall, by the falling or washing away of the bank of such water-course, become unsafe or inconvenient for use as a public highway, it shall be the duty of the supervisor having such highway in charge forthwith to give the owner or occupant of the land over which such highway passes, notice to remove his fence back from the bank of such water-course far enough to admit of the opening and construction of a road at least forty feet wide; and if the owner or occupant of such land should neglect to remove such fence, as required by such notice, it shall be the duty of such supervisor to call out the hands liable to work on highways in his road district, and forthwith to remove such fence, doing to the owner or occupant no greater damage than is necessary for the removal of the fence. If any dwelling or building should stand so near such water-course that a sufficient space is not left for such road, then such supervisor may open such highway in the rear of such dwelling house or other building.

Damages—Viewers.

SEC. 32. When such fence shall be removed, or road changed to the rear of buildings, as provided for in the preceding section, the owner of such land may file with the board of commissioners of the county where the same is situated a claim for damages for the removing of such fence or the change of such road, and for the use of the ground over which the said road shall pass; and upon the filing of such claim, it shall be the duty of such board of commissioners to appoint two reputable freeholders of such county to view such premises and assess the damages of such claimant, by reason of the appropriation of his said land for such highway and the removal of such fence.

Oath—Report—Reviewers—Payment.

SEC. 33. The viewers appointed as provided for in the last section shall be sworn faithfully and impartially, and upon actual view of such premises, to assess such damages and report the same to such board of commissioners, and such board may allow and order the same to be paid out of the treasury of such county; or if the board deem such assessment to be too high it may appoint reviewers to make another assessment, who shall be sworn, and proceed in like manner to assess such damages, and report the same to such board, and such board shall order the amount of the assessment to be paid out of the treasury of the county. If such claimant shall feel aggrieved by such assessment, he may demand a review of such premises, and a new assessment of such damages, whereupon such board shall appoint reviewers, as aforesaid, who shall review such premises, and re-assess such damages; but if such last-named re-assessment shall be for no greater sum than the first assessment, such claimant shall pay the cost of such last named review.

Gates at River Bank.

SEC. 34. Persons living on or owning property along any water-course that is navigable for boats of a large size, are hereby authorized to hang gates at or near the top of the bank, across any road leading down the bank and terminating at such water-course, save in the limits of towns and cities.

RAILROAD, INTERURBAN, STREET-CAR, TELEGRAPH AND TELEPHONE LINES.

Railroad, Etc.—Crossing Stream or Highway.

SEC. 35. Every steam or electric railroad company shall have the right to construct its railroad across any stream, water-course, road, highway, railroad or canal which the route of its road shall intersect, in such manner as not to interfere with the free use of the same and so as to afford security for life and property; but such railroad corporation shall restore and maintain the stream or water-course, road, highway or canal, thus intersected, to and in its former state, or in a sufficient manner not unnecessarily to impair its usefulness or injure its franchises. Whenever the track of such railroad shall cross a road or highway, such crossing may be at grade or such road or highway may be carried under or over the track, as may be most expedient; and, in cases where an embankment or cutting shall make a change in the line of such road or highway desirable, with a view to a more easy ascent or descent, the said railroad corporation may take such additional lands for the construction of such road or highway, or such new line as may

be deemed requisite. Unless the lands so taken shall be purchased or voluntarily given for the purposes aforesaid, compensation therefor shall be ascertained in the manner provided by law, and duly made by such corporation to the owners and persons interested in such lands; and the same, when so taken and compensation made shall become part of such intersecting road or highway, in such manner and on such terms as the adjacent parts of such highway may be held for highway purposes.

Interurban—Extension on Highway.

SEC. 36. Any interurban or street railway company, organized under the laws of the State of Indiana and operating such railway within any of the towns or cities of the state, desiring to extend its road beyond such town or city limits on any public highway, or any other company organized under the laws of the State of Indiana for similar purposes, or any corporation desiring to build an interurban electric railway outside of any city or town on any public highway, may do so by procuring the consent of the board of commissioners of the county in which such highway is situated. If such highway is graveled or planked by a gravel or plank road company, such interurban or street railroad company shall also be required to procure the consent of such gravel or plank road company to run its road over such gravel or plank road. Such interurban or street railroad company shall, in all cases in which any road or highway shall be used by it for the purposes expressed in this section, locate its tracks on such part of such highway, keep its track and roadbed in such condition and perform such other reasonable terms and conditions as may be fixed in the order of the board of commissioners of the county made in granting such consent or at any time afterwards.

Railroad, Etc.—Real Estate Taxation.

SEC. 37. All officers engaged in the assessment of property for taxation are prohibited from assessing for taxation, against any adjacent property holder, the real estate occupied by any railroad, interurban or street railway, or by any public highway, and no part of the land so belonging to such property holder shall be assessed against him for taxation except the portion beyond the lines of the right of way of the railroad, interurban or street-car company or the right of way used and occupied as such public highway: *Provided,* That if the assessor and the land owner shall fail to agree on the amount of land contained in such railroad, interurban or street-car right of way, on such public highway, then such land owner, to receive the benefit of such exemption, shall determine the amount of land in dispute by actual survey and shall bear all expenses of the same.

Poles, Wires, Etc.

SEC. 38. That corporations organized for the purpose of constructing, operating and maintaining telephone lines and telephone exchanges are authorized to set and maintain their poles, posts, piers, abutments, wires and other appliances or fixtures, upon, along, under and across any of the public roads, highways and waters of this state, outside of cities and incorporated towns; and individuals owning telephone lines are hereby given the same authority: *Provided*, That the same shall be erected and maintained in such manner as not to incommode the public in the use of such roads, highways and waters: *Provided, also*, That no pole or appliance shall be so located as to interfere with the ingress or egress from any premises on said road, highway or waters: *Provided, further*, That nothing herein contained shall be construed as depriving the county commissioners of any county of the power to require the re-location of any such pole, poles or appliances which may affect the proper uses of such highway for public travel, for drainage, or for the concurrent use of other telephone lines; that the location and setting of said poles shall be under the supervision of the board of commissioners of the county.

BRIDGES.

Bridges—Building or Repairing.

SEC. 39. Whenever, in the opinion of the board of commissioners of any county, the public convenience shall require that a bridge upon any highway should be repaired or built, the board shall cause surveys and estimates therefor to be made and plans and specifications to be prepared and filed in the office of the county auditor, and shall direct such bridge to be erected or such repairs to be made. If, in the opinion of the board, the estimate therefor shall exceed the ability of the road district in which such bridge is to be built, or repairs to be made, by the application of its ordinary road work and tax, the commissioners may use any appropriation made from the county treasury to build or repair the same.

Funds.

SEC. 40. Such board of commissioners shall receive and appropriate all donations for the erection and repair of bridges, and shall make such regulations in reference to payments and kinds of bridges as to it shall seem proper.

Sealed Proposals—Contract—Bond.

SEC. 41. In case any board of commissioners determine that a bridge should be erected or repaired out of funds appropriated

therefor from the county treasury, as provided in section thirty-nine of this act, such board shall direct the county auditor to advertise for sealed proposals to do the work according to the plans and specifications on file in his office. Such notice shall be given by publication for two weeks, once each week, in a newspaper of general circulation in the county, the last publication to be ten days before the day set for receiving bids. The commissioners may provide in such notice that each bidder, in guaranty of good faith and that he will enter into contract to do the work if his bid is accepted, shall deposit such money or give such bond as the board may deem proper, and may fix such other terms and conditions for the reception of bids as may be desirable. The board may let the contract to the lowest and best bidder, if his bid be reasonable, and may enter into written contract with him. But the board may reject all bids and re-advertise for other bids. Such contractor shall be required to give bond in an amount and with surety to be approved by the board, conditioned for the due performance of his contract.

Purchase of Bridge—Abandoned Bridge.

SEC. 42. The board of commissioners of any county may purchase any toll bridge, or buy any private interest therein, and order the same to be paid for out of any money appropriated therefor out of the county treasury; and whenever any bridge company has abandoned, or may abandon, any bridge, or when the right to take toll has expired, or may expire, it shall be lawful for the commissioners of the county in which such bridge may be situated to require the same, and the grades leading thereto, to be repaired; and for that purpose such board shall possess all the powers that are given by law to boards of commissioners for building and repairing bridges.

Repair of Bridges.

SEC. 43. The board of commissioners of every county shall cause all bridges therein to be kept in repair, and shall cause the supervisor of the proper road district to keep in a conspicuous place at each end of any bridge in his district, whose chord is not less than twenty-five feet, the following notice in large letters: "One dollar fine for riding or driving on this bridge faster than a walk." And if any person shall ride or drive over any such bridge faster than a walk, or if he shall in any manner wilfully injure such bridge, he shall, for every such offense, forfeit and pay any such sum not less than one dollar nor more than treble the damages legally ascertained, to be recovered by the proper supervisor before any justice of the peace of the proper county, which sum so recovered shall be applied to the repairs of such bridges.

Within Corporate Limits.

SEC. 44. The board of commissioners of any county may build or repair any bridge within the corporate limits of any city or town in such county; and any such bridge, if built or repaired by order of such board, shall be built or repaired in the same manner and paid for out of the same funds that other bridges without such corporate limits are by law built or repaired and paid for. Nothing in this section, however, shall be so construed as to take away from any such city or town the right to build or repair any bridge within its corporate limits, nor to take away the jurisdiction of such city or town over all bridges within such limits, whether built or repaired by such city or town or by the county board.

Across Boundary Line—Proceedings, Etc.

SEC. 45. Whenever public convenience shall require the erection, repair or purchase of any bridge across a stream forming the boundary line between two or more counties in this state, the board of commissioners of such counties, upon application therefor, may, by order entered of record, declare its willingness to aid in the erection, repair or purchase of such bridge, and shall cause notice of such order to be given to the boards of commissioners of the other counties interested therein. And whenever it may be ascertained that each of such other boards has made a like order, as shown by the certificates of the auditors of the respective counties, such boards shall, in case of the erection or repair of such bridge, by concurrent resolution, cause a survey and estimate to be made, submitting plans and specifications therewith, by some competent person, to be presented to such boards at a specified time and place when and where they shall meet in joint session at or near the site of such bridge, to estimate and determine the kind of bridge which shall be erected, or repairs made, and the manner and time of payments therefor; and they shall cause the plans and specifications that may be agreed upon at such meeting to be placed on file with the auditor of the county which first declared its willingness to aid in the erection or repair of such bridge, and a complete record shall be made by the auditor of such county of all the proceedings in relation to such bridge: *Provided,* That whenever a board of commissioners of any county shall have notified the board or boards of any other county or counties interested in the erection, repair or purchase of any bridge as specified in this section, and any such board of commissioners so notified shall fail or refuse for the period of thirty days to accept or act on the same by joining in the building, repair or purchase of such bridge, then the board or boards of commissioners passing such order, may, if in their opinion public convenience require it, build, repair or purchase such bridge under the same rules and regulations as are now

or may hereafter be in force for the building, repair or purchase of bridges wholly within one county, after first having obtained, in case of the erection of a bridge, the written consent of the land owner in the adjoining county whose land will be occupied by such bridge. In case of the erection or repair of a bridge, it shall be the duty of such boards of county commissioners, while in joint session, to appoint one or more persons as superintendents, who shall have full control and supervision of the erection or repair of such bridge, subject, however, to such regulations as such boards of commissioners may determine upon; and such superintendent or superintendents shall each give bond in such sum as may be required by such boards of commissioners, and to be approved by them. It shall be the duty of such boards, in joint session, to fix the amount of the appropriation which should be made by their respective counties in payment of the cost of construction, repair or purchase of such bridge; which apportionment to each county of the whole cost of the construction, repair or purchase of such bridge shall be in proportion to the taxable property of such counties. In case of the refusal of any county, as aforesaid, to join in the construction, repair or purchase of such bridge, the county desiring such improvement may construct, repair or purchase such bridge, as hereinbefore provided, and when the cost of such bridge or repairs does not exceed five thousand dollars the county making such improvement shall be entitled to recover from each of such adjoining counties affected by such improvement the amount that such county should have paid had it joined in such improvement, such claim to be enforced as other claims are enforced against counties in this state; and when such claim is litigated the judgment shall include a reasonable attorney's fee for the plaintiff's attorney. All boards of commissioners, proceeding under this section to erect, repair or purchase joint bridges, in advertising for bids, letting contracts and requiring affidavits and bonds for bidders and contractors, shall be governed by the laws now in force or hereafter enacted, providing for advertising for bids, letting of contracts and requiring affidavits and bonds of bidders and contractors for the erection of bridges wholly within and by one county. Each county shall be regarded as the owner of an interest in any bridge erected, repaired or purchased in pursuance of this section, and each shall have a voice in regulating the use thereof.

GRAVEL ROADS.

Construction by Assessment—Proceedings.

SEC. 46. The board of commissioners of every county in this state shall have power, as hereinafter provided, to lay out, con-

struct or improve, by straightening, grading, paving, draining, graveling or macadamizing any public highway, or any part thereof, within such county. Upon the presentation to any such board of a petition stating the kind of improvement prayed for, and the points between which the same is asked, signed by a majority of the adult resident landowners of the county whose lands will be benefited by the proposed improvement, such majority shall represent a majority of the acres owned by said residents, such board, if satisfied that due notice of such application has been given by publication, once each week for two weeks successively, in a newspaper published in the county, the last of which publications shall be at least ten days before the meeting of the board at which such petition is to be presented, or by posting up notices in three of the most public places in the neighborhood of such highway, at least ten days before such meeting of the board, shall appoint three disinterested freeholders of the county as viewers, and a competent surveyor or engineer to consider such proposed improvement and to proceed, upon a day to be named by the commissioners, or on any other day to which a majority may adjourn, prior to the next session of such board, to examine, lay out, straighten or otherwise improve such highway, as in their judgment public utility or convenience may require; and the auditor of the county shall notify such viewers and surveyor of the time and place of their meeting, and they shall meet accordingly, and after taking an oath or affirmation faithfully and impartially to discharge the duties of their appointment, respectively, shall determine what lands will be benefited or damaged by the proposed improvement, and shall take to their assistance two suitable persons as chain carriers, and one marker; and if the said viewers find [that] such improvement will be of public utility, and that the costs and expenses thereof and damages caused thereby will be less than the benefits to the lands within two miles of the improvement, excepting such lands and lots as lie within the limits of any incorporated town or city, they shall, upon the actual view of all the lands within two miles of the improvement, excepting such lands and lots as lie within the limits of any incorporated town or city, apportion the estimated costs, expenses and damages upon all the said lands within such two miles that will be benefited, according to the benefits to be derived therefrom. They shall assess the damages, if any, to be sustained by any person or persons through whose lands such road is proposed to be laid out, straightened or improved.

Viewers and Surveyor—Report—Notice.

SEC. 47. The viewers and surveyor, as soon as they have performed the duties prescribed by the preceding section, shall make a report to the board of commissioners, and file the same with the auditor of the county, which report shall show the public utility of the proposed improvement, an estimate of the costs and expenses thereof, including reasonable attorney's fees for the petitioners, the damages, if any, assessed to the several tracts of lands, the benefits to each forty acre tract of land or less, where such exists, and give a description of the work proposed, the grade, drains, culverts, kind of improvement, the commencement, width and terminus of the road: *Provided*, That no lands shall be assessed for benefits that do not lie within two miles of the contemplated work or improvement, nor lands within incorporated towns or cities. As soon as such report is filed with the auditor, it shall be his duty to give notice of the filing thereof by publication for two successive weeks, once each week, in some newspaper published in the county where the improvement is to be made, and state therein the points between which such improvement is to be made, and the time set for the hearing of such report, the last of which publications shall be not less than ten days before the time set for such hearing.

Hearing of Report—Order.

SEC. 48. At the time fixed for the hearing of the report, the board of commissioners shall proceed to hear the same, and if it is found that notice has been given, as required by the preceding section, that the proposed work is of public utility and that benefits assessed exceed the expenses and damages, such board shall enter upon its records an order that the improvement be made, which order shall state the kind of improvement and the width and extent of the same.

Amendment to Petition.

SEC. 49. The board of commissioners shall have power to permit amendments to be made to the petition or report, and to extend the time to the viewers to make their report, and to continue the hearing from time to time, so as to subserve the ends of justice.

Remonstrance—Causes.

SEC. 50. On or before the day fixed for the hearing of such report the owners of any lands affected by the work proposed may remonstrate against the report, which remonstrance shall be sworn to, and may be for any or all of the following causes:

First. That the report of the viewers is not according to law, stating specifically the illegality claimed;

Second. That the lands of the party filing the remonstrance are not benefited, or are assessed too much as compared with other lands assessed as benefited, specifying such lands;

Third. That the lands of the party filing the remonstrance are damaged, and that the damages assessed are inadequate;

Fourth. That it is not practicable to accomplish the proposed work without an expense exceeding the aggregate benefits;

Fifth. That the proposed work will not be of public utility.

If more than one party remonstrate, the remonstrances shall be consolidated and tried together, and the report of the viewers shall be prima facie evidence of the facts therein stated. The board of commissioners shall try the issues thus formed, and if such board find for the remonstrants upon the fourth or fifth cause of remonstrance, the petition and report shall be dismissed at the cost of the petitioners: *Provided*, That if donations shall be made or secured to the satisfaction of the board, sufficient, with the assessments, to equal the expenses of the work and damages allowed, the petition and report shall not be dismissed for the fourth cause of remonstrance, and such donations are hereby authorized to be made. If the board find for the remonstrants upon the first cause of remonstrance, the report shall be referred back to the viewers for correction, or for a new report, to which new or amended report remonstrances may be filed as before; and if the report shall finally be made according to law the board shall find against the remonstrants for the first cause of remonstrance. If the board find for the remonstrants upon the second or third cause of remonstrance, such board shall modify the assessments and equalize the same and assess the damage as justice may require, and thus modified and equalized the assessments shall stand and be adjudged valid. The only questions that shall be raised shall be those raised by the remonstrance. If the assessment upon the lands of any remonstrant is not reduced twenty per cent. or the damages claimed by any remonstrant are not increased twenty per cent., such remonstrant shall pay all costs occasioned by such remonstrance; but if such assessment be reduced more than twenty per cent., or the damages be increased more than twenty per cent., then the remonstrant shall recover costs and the board shall apportion such costs pro rata upon the lands assessed for benefits. Such assessments when confirmed by the board of commissioners, or higher court on appeal, shall constitute first and paramount liens on the real estate respectively assessed, as taxes are liens, which liens shall relate back and bind the real estate so assessed from the time of the filing of the report. The auditor shall at once enter such assessments upon the tax duplicate, to be collected by the county treasurer as state and county taxes are collected, with in-

terest at six per cent. per annum, [in] installments as hereinafter provided, and the moneys collected shall be used exclusively in payment of the bonds, costs and expenses of such work, as hereinafter provided.

Superintendent of Construction.

SEC. 51. After the improvement has been ordered and the assessments confirmed, as provided in the last section, the board of commissioners shall appoint a competent person to superintend the construction of the work, who, before entering upon the duties of such trust, shall take an oath or affirmation honestly, faithfully and impartially to discharge the duties of such trust, and shall execute a bond, payable to the State of Indiana, for the use of the parties interested therein, in double the amount of the assessments, with surety conditioned for the faithful performance of the duties assigned him, which bond shall be approved by the board of commissioners. Suit may be brought on such bond by any person or corporation aggrieved, and any judgment rendered thereon in favor of any person or corporation shall be without relief from valuation or appraisement laws and with attorney's fees.

Superintendent's Duties.

SEC 52. It shall be the duty of the superintendent charged with the execution of the work provided for in the preceding six sections to proceed to have the same constructed as ordered. He shall let the contract for such construction as a whole or in parcels, as he may deem best. He shall give notice of the time and place the contract or contracts will be let, by publication once each week for two successive weeks in one or more papers published in the county, which notice shall state the time within which the work is to be completed, and the parcel or parcels to be let. Sealed proposals shall be received, and the work let to the lowest responsible bidder or bidders. A bond with surety executed by the bidder to the State of Indiana, in the amount of the bid, shall accompany each bid. Such bond shall be executed by freehold sureties, at least one of whom shall be a resident of such county; or the bond may be secured by a surety company to the approval of the board. Suit may be brought on such bond on the relation of the superintendent or that of any person having an interest therein, for any and all breaches thereof, and any judgment rendered thereon shall be without relief from valuation or appraisement laws, and include reasonable attorney's fees. If any person or persons contracting to construct the work, or any part thereof, shall fail to perform the same according to the contract, the superintendent shall have the right to relet the same, on notice

and after receiving bids as on the first letting, and deduct from the contract price of the original contract whatever sum the last contract is in excess of the original contract, and shall also deduct the expense of the reletting; and the superintendent shall have the right to continue the reletting as above until the work is fully completed.

Assessments—Payment—Issuance of Bonds.

SEC. 53. As soon as the contract or contracts are let for the construction of the work as provided in the preceding section, the superintendent shall assess upon all the lands benefited, ratably upon the amount of benefits as confirmed and adjudged by the board of commissioners, or court on appeal, such sum as may be necessary to pay for the work and all costs and expenses accrued or to accrue, not exceeding the whole benefits adjudged upon any one tract. He shall immediately thereafter make out a notice stating that the work has been established by the board of commissioners, setting out also the several assessments to the several tracts of land, as confirmed by the board, or court on appeal, and cause such notice to be recorded in the office of the recorder of the county. Whenever any assessment shall have been satisfied, it shall be the duty of the superintendent to enter satisfaction of the lien thereof in such record; and in case bonds are issued, as hereinafter provided, it shall be his duty to enter on the margin of such record the words "bonds issued," which entry shall have the effect to transfer the record of the lien of any such assessment to the gravel road duplicate in office of the county treasurer. Should such superintendent fail to enter such satisfaction, the board, by order duly entered, shall direct the auditor to make such entry of satisfaction in the recorder's office. Such superintendent shall be liable on his bond to any person interested for such failure of duty. The superintendent of construction, out of the funds collected from the assessment so made and confirmed, shall pay all costs of the gravel road improvement not otherwise adjudged, and all expenses incident to the construction of the work, including the reasonable attorney's fees of the petitioner or petitioners in the preparation and presentation of the petition, the establishment of the work and other services rendered in such work, and also such other costs and expenses as the board shall allow; but no claim for costs or expenses, except payments on the contract for constructing the work, shall be paid until such claim is allowed by the board. All costs not taxable to the petitioner or petitioners, remonstrants or appellants, shall, in the first instance, be paid out of the county treasury, and shall be refunded to the county by the superintendent of construction out of the first moneys collected by him; next in order he shall pay all awards of damages;

and thereafter he shall pay to the contractor such sums as shall from time to time become due under the terms of the contract, reserving, however, twenty per cent. thereof, which shall be due and payable only on completion and approval of the whole work. For the purpose of raising funds for making such payments, the superintendent shall collect of the assessments of benefits adjudged by the board, such sums as may be necessary therefor, not exceeding the whole amount of benefits assessed against any tract, and require the same to be paid to him in installments not exceeding ten per cent. per month, at such times and places as he shall fix, after thirty days' notice thereof given by one publication in a newspaper of general circulation published in the county. If any such assessment is not paid in the amount and at the time by him required, the superintendent shall make his certificate showing the amount of the assessment against any tract, and the default in its payment as required, and shall file the same with the auditor of the county; thereupon the auditor shall place such amount, together with ten per cent. penalty for the default, upon the tax duplicate, to be collected as state and county taxes are collected, at the next ensuing date for semi-annual payment of taxes. If such assessment and penalty are not then paid, an additional penalty of five per cent. shall be added, and the land shall be sold for such assessment and penalty with interest thereon at six per cent. from the date of last default to the date of sale, as lands are sold for the non-payment of delinquent taxes; and the redemption from such sale may be had in the same manner, during the same time and on the same terms as provided by law for the redemption of lands sold for delinquent taxes. Gravel road bonds may be issued to procure funds for the payment of the cost, damages and expenses of the construction of such work, and of the proceedings had therein, provided the owners of lands assessed for benefits shall, within thirty days from the establishment of the work and approval of the assessments of benefits and damages, file their written requests therefor with the superintendent of construction. In such written request any such land owner shall agree that in consideration of the right to pay his assessment in ten yearly installments he will not make any objection to any illegality or irregularity, if any, in the proceedings up to and including the letting of the contract and the issuing of such bonds and that he will pay such assessments with interest as the same become due. The filing of such requests and the issue of bonds, if any there should be, shall in no manner affect the collection of assessments from land owners and others assessed for benefits who have not filed requests for the issue of bonds, and as to them the collection of the assessments as hereinbefore provided for shall be made as if no bonds

were issued; and bonds shall be issued to cover only so much of the cost, damages and expenses of the work and of the proceedings had therein as is apportioned to the lands of those who have filed requests therefor, and shall be liens only on such lands and payable only out of the assessments made thereon. Such apportionment shall be made as follows: The superintendent of construction shall carefully ascertain the total original cost of the work, including all damages awarded to the owners of lands and all incidental expenses, and shall apportion such total cost, damages and expenses to the several tracts of land and parties assessed for benefits, in proportion to the assessments for benefits, not in any case exceeding such benefits. Thereupon the superintendent shall report all such facts to the board of commissioners, together with all such requests for bonds and waivers of irregularities by land owners, which report and waivers the board shall examine, and, if found correct, shall approve; whereupon such report and requests and waivers, with such approval, shall be entered in full in the order book of the board. The board of commissioners, after the entry of such order, shall direct the county auditor to prepare an assessment sheet, or gravel road duplicate, showing the total cost apportioned to all the parcels of land for which the owners of lands request the issue of bonds, with proper columns for the payment of installments and interest. And such auditor shall assess ratably from year to year upon such lands a sum sufficient to pay such bonds and interest as they severally mature. The first of such assessments shall be due and payable at the semi-annual payment of taxes next following the letting of the contract, and the remaining assessments on the same day each year thereafter for nine successive years, with interest at six per cent. per annum, payable semi-annually, on all unpaid assessments. Such assessments and interest shall be collected by the county treasurer as state and county taxes are collected, and shall be subject to the same penalties in case of non-payment when due; and all laws for the collection of delinquent taxes, and for the sale of lands for taxes and redemption from such sale, shall apply equally to the collection of such assessments. Any land owner desiring to relieve his land of the lien of such cost of gravel road improvement may, at any time, pay the whole amount of the unpaid installments, with all interest due thereon. The treasurer shall receipt for any payment on such installments, and mark such payment on the duplicate, as in the case of payment of taxes; and any such payment shall be a release of the lien of such cost, and of the assessment for such work, to the extent of such payment. As soon as such duplicate is so prepared, the board of commissioners shall issue the bonds of the county to the amount of the cost so placed on the duplicate for collection. The

bonds shall be numbered consecutively, and shall be in denominations of one hundred dollars or any multiple thereof, except that one bond may be for less than one hundred dollars. One-tenth of such bonds, as near as may be, shall fall due and be payable on the first day of June or December, as the case may be, following the next succeding semi-annual payment of taxes; and one-tenth of such bonds, as near as may be, shall fall due and be payable on the same day every year thereafter, for nine successive years. All such bonds shall bear interest from the date of letting the contract for such work until the bonds are paid, respectively, at six per cent. per annum, payable semi-annually, on the first day of June and first day of December, each year. They shall show on their face for what purpose issued; and shall be payable out of collections made on such assessments, and not otherwise. Upon the signing of such bonds by the board of commissioners and the attestation thereof by the county auditor, they shall be turned over to the county treasurer, who shall receipt to the auditor therefor. Thereupon the treasurer shall give notice, by publication once in a newspaper of general circulation published in the county, and by posting a copy of such [notice] at the door of the court house, that, at the office of such treasurer, on and after the hour of ten o'clock a. m., on a day to be named, not less than twenty days thereafter, the treasurer will proceed to sell such bonds, at not less than the principal sum named in such bonds, to the highest and best bidder for cash: *Provided, however,* That in lieu of selling such bonds, as herein provided, the board of commissioners, by order of record to that effect, may direct that the bonds shall be exchanged at par and held by the county treasurer for any unloaned school funds or other unused funds held in the county treasury; in which case the assessments and interest collected for the payment of such bonds shall be paid into and credited to the fund so used in their purchase. The proceeds of such bonds shall be drawn out of the county treasury only on the warrant of the auditor, upon the certificate of the superintendent, in payment of the cost of construction of such work and the expenses incident thereto. In case the bonds sell at a premium, the aggregate amount of such premium shall be apportioned pro rata to the several assessments of cost against the respective parcels of land; and the amount thus apportioned to each parcel shall operate as a payment, to that extent, of the first maturing installment.

Acceptance—Final Reports—Surplus Funds.

SEC. 54. When the work of graveling, macadamizing or otherwise improving such highway, as hereinbefore provided, is completed, and the superintendent shall certify the same to the auditor

of the county, the board of commissioners shall receive the improvement and provide for the keeping of such road in repair, as hereinafter required. It shall be the duty of the said superintendent, within sixty days after certifying the completion of the improvement, to file his report with the auditor, showing the receipts and disbursements, accompanied with vouchers for all disbursements, which report shall be submitted by the auditor to the board of commissioners at their next ensuing term, for approval or rejection. As soon as such report shall have been approved by the board of commissioners, the superintendent shall, within ninety days thereafter, distribute the surplus funds, if any, remaining in his hands to the persons from whom the same were collected, according to the several assessments, and take vouchers therefor; and as soon as he has completed such distribution he shall file his report thereof, accompanied by such vouchers, with the board of commissioners, for approval or rejection, and when the same has been approved, he shall be discharged by order of the board. If for any reason any surplus funds remain in the hands of the said superintendent after having made distribution the same shall be ordered paid into the gravel road repair fund, to be used only in the repair of the road for the construction of which the funds were collected. Whenever the owner of any tract of land assessed for the construction of any such road shall have paid off such assessments, it shall be the duty of the auditor to release and satisfy such assessment lien by writing the appropriate words of such payment and satisfaction upon the record where such assessment appears, and sign his official signature to such release, with the date thereof.

Contractor—Purchase of Materials.

SEC. 55. Any contractor for the construction of such work, or any part thereof, as provided for in the preceding nine sections of this act, shall have the power to contract for and purchase any materials that may be necessary for the construction of such road; and if such contractor cannot agree with the owner of such materials, as to the price thereof, he may apply to the circuit court of the county, or the judge thereof in vacation, to appoint appraisers to condemn and assess the value of such materials as provided by law for the condemnation of real estate under the power of eminent domain. The appraisers shall also assess the damages that may accrue to the owner of such materials by the removing of the same through his premises, and shall immediately return their award to such circuit court, or the judge thereof in vacation; and such court or judge shall, upon the return of such award, on application of such contractor, furnish him with a copy of such award. Thereupon such contractor shall enter upon the lands, either en-

closed or unenclosed, and remove such materials as may be required to make a good road. An appeal from such award by the owner shall not prevent the immediate entry upon the premises by the contractor for the purpose of taking such materials. If the contractor appeal and the award be not reduced ten per cent. thereof, he shall pay all costs occasioned by the appeal; and if the owner of the materials appeal and do not receive ten per cent. more than the award, such owner shall pay all the costs occasioned by the appeal.

Remonstrance Appeal—Question for Trial—Costs, Etc.

SEC. 56. Any person who appeared and filed a remonstrance before the board of commissioners as provided for in section fifty of this act, shall be allowed an appeal to the circuit court, in like manner as other appeals are now allowed; and on such appeal the only question that shall be tried in the circuit court shall be the question raised before the board of commissioners by the first, second or third causes of remonstrance, which questions shall be tried by the court without a jury. On such trial the report of the viewers shall be prima facie evidence of the facts therein contained. If more than one party appeal all such appeals shall be consolidated and tried together, and the rights of each appellant separately determined. If the court find for any appellant upon the first cause of remonstrance the report shall be referred back to the viewers for correction, or for a new report; and if the report as so amended is found to be correct it shall be approved by the court. If the court find for any appellant upon the second or third cause for remonstrance, it may modify and equalize the assessments as justice may require, by diminishing or increasing any assessments or benefits, or by giving or withholding, increasing or diminishing, damages. For the purpose of so ruling upon such causes of remonstrance, and so modifying the assessments, all persons or corporations who are reported as affected, or whose lands are reported as affected, or who are named in the petition as affected, or who have appeared to the petition, shall be deemed to be in court for all purposes, by reason of such appearance or by virtue of the notices theretofore given them; and as thus modified and equalized the assessments shall stand and be adjudged valid. Such judgment of the court shall be final, and no appeal be allowed therefrom. If the assessment upon the lands of any appellant is not reduced twenty per cent. or the damages awarded by the board of commissioners are not increased twenty per cent., such appellant shall pay all the costs occasioned by such appeal, but if such assessment be reduced more than twenty per cent., or if the damages be increased more than twenty per cent., then the appellant shall recover costs, and the court shall apportion such costs pro rata upon

the lands assessed for benefits: *Provided,* That the decision of the board of commissioners as to the fourth and fifth causes for remonstrance shall be final and no appeal shall be allowed therefrom: *And provided, further,* That if any appeal is taken from the board of commissioners to the circuit court, the bonds hereinbefore provided for shall not issue until after the final judgment of the circuit court on such appeal.

Error in Proceedings.

SEC. 57. No person shall be permitted to take advantage of any error committed in any proceedings to lay out, construct or improve any highway under and by virtue of this act, nor of any error committed by the board of commissioners, or by the county auditor, or by the engineer, surveyor, superintendent or other person or persons in the proceedings to lay out, construct or improve any such road, nor for any informality, error, or defect apparent in the record of such proceedings, unless the party complaining is affected thereby.

Taxation in Cities or Towns.

SEC. 58. When any highway to be improved under and by virtue of sections forty-six to fifty-seven, inclusive, of this act, begins or terminates in any city or town, the corporate authorities of such city or town may, on agreement with the board of commissioners, levy a tax for the payment of an amount not exceeding one-fifth of the entire cost of such improvement, in addition to any amount that may be assessed upon the real estate in such city or town by virtue of the provisions of said sections: *Provided,* That the entire tax to be imposed for road purposes by virtue of this section shall not in any one year exceed fifty cents on the one hundred dollars of taxable values of such city or town.

Into Adjoining County.

SEC. 59. When it may be desirable to continue any highway improvement contemplated under the provisions of the preceding sections from forty-six to fifty-eight, inclusive, into or through an adjoining county, the same proceedings shall be had in such county as to petitions, bonds, viewers, appraisements and all other formalities as are prescribed in said sections for the commencement of such improvement in the first county, and all such proceedings shall be had before the board of commissioners of the county in which such proposed extension is located.

One Mile or Less.

SEC. 59½. Whenever there shall be constructed in any county of this state any public gravel road or turnpike not less than one

(1) mile in length, except where the entire length of the road is less than one (1) mile, and connecting with any free gravel road or terminating at any town or city, the same having a substantially graded roadbed not less than twenty (20) feet wide, with suitable side drains, culverts and bridges, and with grades not exceeding the maximum of free gravel or turnpike roads of such county, and having placed thereon not less than one (1) yard of suitable gravel or broken stone for every three (3) feet in length in such manner as to make a suitable road for public travel; that on the written request to the board of commissioners for such county, of not less than three (3) freeholders residing in the road district wherein such road is situated, said board of commissioners shall make inspection thereof, and for such purpose may employ a competent engineer to assist them. If upon such examination such road in their opinion is of public utility, and shall conform to the requirements herein, they shall cause an entry to be made on their records of such facts, and also enter thereon a description of the commencement and terminus thereof, and general description of the route of the same, and thereafter such road shall be deemed a part of the free gravel or turnpike roads of such county, and maintained as by law provided.

On County Line—Proceedings.

SEC. 60. When it is desirable to make any gravel or other highway improvement upon the boundary line between two counties, such as the improvements contemplated in the preceding fourteen sections, the petition therefor may be filed before the board of commissioners of either county, and such board shall direct the county auditor to transmit to the board of commissioners of the other interested county a copy of such petition and a notice of the time and place when and where both boards shall meet to act upon the petition. Such meeting shall be held not less than twenty days nor more than thirty days from the date of the giving of such notice and transmitting of such copy of such petition. The two boards shall act together in all matters relating to such improvement. The same proceedings shall be had as near as may be, as to the petition, viewers, assessments, superintendent, bonds and all other matters as are prescribed in said foregoing sections of this act in relation to gravel road and other like improvements aforesaid when made in one county. Should the board of commissioners of such second county refuse or neglect to meet and act with the board of the first county, then said first board, before which the petition was filed, may proceed to make the improvement on such boundary line, as if the highway were wholly in the first county, and shall have power to make all assessments on lands within two miles on each side of such line; and such first

county shall have a claim upon such second county for one-half of all necessary expenses paid out of the treasury of the first county in relation to such work, which claim may be collected from the second county as any other claim due from one county to another. Whenever a petition for any such improvement of a highway on the boundary between this state and any other state is filed before the board of commissioners of any county adjoining such other state, such board of commissioners and the other proper officers of such county shall have authority to unite with the proper officers of any adjoining county in such other state in the doing of such work, in accordance, so far as may be, with the proceedings herein authorized when the highway is on the boundary line between two counties: *Provided,* That the adjoining county or counties in such other state shall pay one-half of all expenses and assessments for the construction of such improvement and shall thereafter keep one-half of such highway in repair. The commissioners and other proper officers in such adjoining county in this state are given full power to enter into any equitable contract with the proper authorities in such adjoining county or counties in such other state to do such work and keep up such repairs in accordance with the laws of this state for making and keeping up such improvements in any county of this state, so far as the same can be made applicable.

Free of Toll—Township Road Funds.

SEC. 61. All highways improved under the provisions of sections forty-six to sixty, inclusive, of this act shall be free of toll. Nothing in said sections shall be so understood as to prevent township trustees from grading, graveling, macadamizing or otherwise improving the highways in their several townships and paying for the same out of the road funds of such townships.

GRAVEL ROADS BY TAXATION.

Township Construction, Etc., by Taxation.

SEC. 62. The boards of commissioners of the several counties of the State of Indiana are hereby authorized and empowered to lay out, establish and cause to be graded, drained and paved with stone, gravel or other road paving material any new highway or part of a highway in any township in said state, or on the line dividing any two or more townships in any county in this state, or to cause to be graded, drained and improved in like manner any public highway already established in any such township or on the line dividing any two or more of such townships, in the manner and upon the conditions hereinafter prescribed.

Petition—Notice.

SEC. 63. Whenever a petition signed by fifty or more freeholders and voters of any township in any county in this state, includes any incorporated town or city in such township having a population of less than thirty thousand inhabitants, praying that any public highway or highways within such township shall be laid out, established and improved by grading, draining and paving with stone, gravel or other road paving material, or that any public highway, or highways, or any part of any public highway, or highways, already established, shall be graded, drained and paved with stone, gravel or other road-paving material, or by fifty or more freeholders and voters of two or more townships in such county praying that a public highway shall be laid out, graded, drained and paved on a line dividing such townships, or that a highway on such line shall be graded, drained and paved, shall be addressed to the board of commissioners of the county in which such township or townships are located, and filed in the office of the auditor of such county, it shall be the duty of such auditor to cause to be published in a weekly newspaper of general circulation, printed and published in said county, and to be posted in not less than three public places within each of the townships named in such petition, and at the door of the court house of such county, a notice setting forth a copy of such petition, and the day upon which the same will be presented to such board of commissioners.

Contents of Petition.

SEC. 64. The petition herein contemplated shall set forth the beginning, course and termination of each new highway or part of highway sought to be laid out, established, graded, drained and paved, and the beginning and termination and a general description of each public highway sought to be graded, drained and paved, together with a recommendation of the width of each such highway and of the character of the improvement to be made, and such petition may include one or more of such highways at the option of the petitioners.

Presentation to Commissioners.

SEC. 65. Upon the filing of such petition the auditor shall designate by endorsement thereon the day in a regular session of such board of commissioners, not more than thirty days thereafter, upon which the same shall be presented to such board, and the notice herein prescribed shall be signed by such auditor and published for two consecutive weeks in such newspaper, and posted not less than fifteen days, before the day so designated by the auditor.

Hearing on Petition—Proof—Engineer—Viewers.

SEC. 66. On the day so designated, by such auditor, the petitioners may make proof of the publication and posting of such notices and present such petition to such board of commissioners, and any taxpayer of any township named in such petition, or any person or corporation whose lands or property will be affected by the work therein prayed for, may file in writing his objections to the form or sufficiency of such petition, and in the event that such board shall deem such petition to be deficient in form, or insufficient in substance, the petitioners shall be permitted to amend the same, but if such petition be not amended in such manner as to be in due form and sufficient, it shall be dismissed at the cost of the petitioners. If on the other hand such petition shall be adjudged by the board to be in due form and sufficient, either in the first instance or after the same has been amended, such board of commissioners shall make an order causing such petition to be spread of record and referring the matter therein prayed for to a competent civil engineer to be appointed by such board and two viewers, each of whom shall be a responsible freeholder and voter of such county, and not a resident of, nor the owner of taxable property in any township named in such petition.

Engineer and Viewers—Oath—Bond.

SEC. 67. Such engineer and viewers shall meet at a time and place to be designated by such board of commissioners, within ten days after their appointment, and shall each take and subscribe an oath faithfully and impartially to discharge his duties, and such engineer shall execute, and file with such auditor, his bond, with good and sufficient sureties to the approval of such auditor, payable to the State of Indiana, in a penal sum of five thousand dollars, conditioned for the faithful discharge of his duties as such engineer, which bond may be put in suit by any person or corporation whose property shall be injured or damaged by any wrongful act or negligence of such engineer.

Duties of Engineer and Viewers—Report—Profile.

SEC. 68. When such engineer and viewers shall have taken the oath, and such surveyor has executed the bond, herein prescribed, they shall proceed, without delay, to view and make all needful surveys of the road or roads mentioned in the petition, and shall determine

(a) Whether any proposed new highway or part of highway described in the petition will be of public utility;

(b) In respect to each separate highway or part of highway named in the petition, whether it will be of public utility to grade, drain and pave the same as therein prayed;

(c) The width of each highway or part of highway to be established or improved;

(d) The character of the improvement, including the grading, draining and paving, to be made of each highway mentioned in the petition, which they shall find to be of public utility, together with complete plans and specifications of each such improvement and of all bridges, culverts and waterways required therein;

(e) The estimated cost of each improvement to be made.

And on a day to be designated by such board of commissioners, in the order appointing them, said engineer and viewers, unless the time therefor shall have been extended by an order of said board, shall file in the office of said auditor their report in writing, signed by each of them, setting forth their determination in said matter in respect to each highway or proposed highway mentioned in the petition, including an accurate description of each new highway to be laid out, established, graded, drained and paved, and of each public highway to be graded, drained and paved, together with their recommendations in respect to the paving materials to be used in each instance and complete plans and specification for each improvement to be made, and the estimated cost of each such improvement, and such report shall be accompanied by an accurate profile of each highway or part of highway to be improved, showing by proper lines and figures the elevation thereof at each one hundred feet of its length and the changes to be made therein by excavation or filling, which profile shall be made by the engineer.

Assessment of Damages—Claims.

SEC. 69. The report and profile of the engineer and viewers shall remain in the office of such auditor, open to the inspection of every person interested therein and of his agents and attorneys for at least ten days, and during such time said viewers shall assess such damages as shall be justly due to any infant, idiot or person of unsound mind, and to any other person or corporation making written claim therefor, on account of the appropriation of or injury to his property by the laying out and establishment of any such new highway or any improvement of any highway prescribed in such report. At the next regular session of such board of commissioners, after the expiration of said ten days, said viewers shall make to said board their supplemental report in writing, setting forth the sums allowed as damages to each infant, idiot or person of unsound mind, and the sum allowed as damages to each other person or corporation making written claim therefor as herein prescribed, together with a description of the property in each case on account of which such damages have been allowed. No damages shall be allowed to or recovered by any person other than an infant, idiot or persons of unsound mind,

unless claim therefor shall have been made by him to such viewers before the filing of such supplemental report. Every person or corporation who has made such written claim for damages, and every infant, idiot or person of unsound mind or his guardian, who shall be dissatisfied in respect to the action of such viewers in respect to his claim or in respect to the damages allowed to him, may except to such supplemental report in writing on that account at the session at which the same is filed, whereupon such board of commissioners shall appoint three other viewers to reconsider the same, which viewers shall take and subscribe an oath faithfully to discharge their duties, and shall examine the lands or property claimed to be affected and assess such damages in each case as they deem to be just and reasonable, and make report of their doings in writing to said board. The board shall cause said supplemental report and the report of such additional viewers to be spread of record, and in event that the road or improvement on account of which such damages are allowed shall be finally established and ordered to be constructed, such damages shall be paid out of the proceeds of the sale of the bonds hereinafter authorized: *Provided,* That if the amount of damages awarded by the reviewers is not 10 per cent. greater than the amount assessed by the reviewers, the claimant shall pay all costs made by said reviewers.

Order for Election—When Made—Notice.

SEC. 70. When all matters in respect to damages have been determined finally as hereinabove provided, such board of commissioners shall examine the reports and profile made by engineer and viewers and if they find and adjudge the same to be in due form and sufficient, they shall make an order requiring the auditor to give notice by publication for three consecutive weeks in a weekly newspaper of general circulation, printed and published in said county, that on a day to be named by the board the polls will be opened at the several voting places in each township named in the petition and report for the purpose of taking the votes of the legal voters thereof upon whether the proposed new highway or highways named in the petition and report shall be laid out, established, graded, drained and paved, or the public highway or highways named therein shall be graded, drained and paved, and that said petition and report and all records and matters pertaining to said matters may be found at the office of said auditor, and the auditor shall publish such notice as required by the order: *Provided,* That said publication shall contain the report of the viewers and engineer, excepting the plats and profiles: *And provided further,* That if any petition filed as provided in section 62 of this act calls for the building or improvement of a road less than

three miles in length connecting at each end with an improved free gravel or macadamized road either within said township or townships or at the boundaries thereof, the board of county commissioners may in their discretion, if they find said petition otherwise complies with this act, establish and order the construction of said road without submitting the question of building the same to an election of the voters of the township or townships concerned, and when said board shall so decide they shall proceed to have said road constructed in all other respects as if submitted to an election and voted as hereinafter provided.

Opening of Polls—Rules—Ballot—Canvass of Vote.

SEC. 71. On the day named in said notice such polls shall be opened and the votes of the legal voters shall be taken upon the matters named therein, and such election shall be governed in all respects by the general laws of this state concerning elections in so far as the same are applicable. The board of election commissioners for such election shall consist of the auditor and two commissioners to be appointed by the board of commissioners, and they shall prepare and cause to be printed the ballots therefor and distribute the same in the manner required by law. The ballots shall set forth a description of each highway and proposed highway in question, and following the description in each instance there shall be printed two squares and words as follows:

YES	For the road.
NO	Against the road.

Each voter desiring to vote for the establishment or improvement of any such road shall mark a cross with a blue pencil in the square containing the word "Yes," and each voter desiring to vote against such establishment or improvement shall mark such cross in the square containing the word "No." The votes cast at such election shall be canvassed at the office of such auditor on the Thursday next following the election, and a certificate of the votes cast for and against each road or improvement, signed by the inspectors, shall be filed with said auditor and by him shall be submitted to the board of commissioners at their next session. If a majority of the votes cast at any such election be found to be in favor of the establishment and improvement, or improvement of any such road or proposed road, the board of commissioners shall make an order establishing such road or work and requiring the same to be laid out, established, graded, drained and paved, or graded, drained and paved, as the case may be, in accordance with the terms of the report and the plans and specifications and profile therefor.

Separate Roads—Petition—Voting on Whole—Town or City.

SEC. 72. If all of the roads described in the report of the engineer and viewers are connected with each other so as to form one system, the whole may be voted upon as one road, if the petitioners so pray in their petition. If two or more petitions respecting roads in the same township shall be pending at the same time, they shall be voted upon at the same election. No street in any incorporated town or city shall be improved under the provisions of this act without the consent of the trustees of said town or the common council of such city, by resolution duly adopted, a certified copy of which resolution shall be filed in the office of such auditor and entered upon the records of such board before such improvements shall be ordered. After any street shall have been improved hereunder, the trustees of such town or the common council of such city shall have control of the same and shall maintain the same in repair.

Notice to Bidders.

SEC. 73. When any such highway or part of highway shall have been ordered to be laid out, established, graded, drained and paved, as herein provided, or any public highway or part thereof, shall have been ordered to be graded, drained and paved, as herein provided, it shall be the duty of the board of commissioners to make an order requiring the auditor to give notice by publication one time in a daily newspaper of general circulation throughout this state, published at Indianapolis, and by publication for three consecutive weeks in a weekly newspaper of general circulation printed and published in the county, that on a day to be named by such board in such order, sealed proposals will be received by said board for the making of said improvements in accordance with said profile and report and the plans and specifications therein set forth. If there be more roads than one the notice shall relate to all. The auditor shall give the notices as ordered, and the notice to be published at Indianapolis shall be published at least two weeks before the day named therein. If the board deems it advisable, it may require similar notices to be posted at public places in the township in which the road or roads are located.

Contract—Bond by Bidder.

SEC. 74. On the day and at the time and place named in the notices the board shall convene in session and shall receive all sealed proposals tendered and shall open the same in the presence of the bidders and shall let the contract for the construction of such road or improvement to the lowest responsible bidder therefor, but no contract shall be let for a bid higher than the estimates made by the viewers: *Provided,* That with his proposal such bid-

der shall submit his bond, payable to the State of Indiana, in a penal sum equal to double the sum of his proposal, with good and sufficient sureties to the approval of the board, conditioned for the faithful performance of the work in accordance with the profile and report and the plans and specifications therein set forth, which bond shall be for the benefit of any person or corporation who shall suffer loss or damage by reason of any failure or neglect of such bidder to enter into a proper contract to perform such work or to carry out the same in any particular, or to pay for any labor or material therefor that shall have been furnished either to him or to any sub-contractor, agent or superintendent under him. If the proposal includes more than one highway or improvement one bond covering all shall be sufficient.

Bonds—Interest.

SEC. 75. For the purpose of raising money to pay for construction the board of commissioners shall issue the bonds of the county not to exceed in amount the contract price and all expenses incurred and damages allowed prior to the letting of the contract and a sum sufficient to pay the per diem of the engineer and superintendent hereinafter provided for during the construction of the work in denominations not less than fifty dollars ($50.00) each in forty (40) equal series, the first series payable in six (6) months, the second series in one year, the third series in one year and six months, the fourth series in two years, the fifth series in two years and six months, the sixth series in three years, the seventh series in three years and six months, the eighth series in four years, the ninth series in four years and six months, the tenth series in five years, the eleventh series in five years and six months, the twelfth series in six years, the thirteenth series in six years and six months, the fourteenth series in seven years, the fifteenth series in seven years and six months, the sixteenth series in eight years, the seventeenth series in eight years and six months, the eighteenth series in nine years, the nineteenth series in nine years and six months, the twentieth series in ten years, the twenty-first series in ten years and six months, the twenty-second series in eleven years, the twenty-third series in eleven years and six months, the twenty-fourth series in twelve years, the twenty-fifth series in twelve years and six months, the twenty-sixth series in thirteen years, the twenty-seventh series in thirteen years and six months, the twenty-eighth series in fourteen years, the twenty-ninth series in fourteen years and six months, the thirtieth series in fifteen years, the thirty-first series in fifteen years and six months, the thirty-second series in sixteen years, the thirty-third series in sixteen years and six months, the thirty-fourth series in seventeen years, the thirty-fifth series in seventeen years and six months, the thirty sixth

series in eighteen years, the thirty-seventh series in eighteen years and six months, the thirty-eighth series in nineteen years, the thirty-ninth series in nineteen years and six months, the fortieth series in twenty years from the 15th day of November or the 15th day of May, as the case may be, after the date of their issue, said bonds bearing interest not higher than four and one-half per cent. per annum, and the principal and interest thereon both to be paid semi-annually on the 15th day of November and the 15th day of May: *Provided,* That the petitioners for the improvement of any road or roads, as in this act provided, may, in their petition, ask that the issue of bonds to be issued and sold to raise moneys to pay for such improvement be issued in series, payable in not less than ten years and not to exceed twenty years in the denominations named in this act, as the petitioners may designate in their petition, and the board of county commissioners shall issue the bonds for such improvement in compliance with the request of such petitioners: *Provided, further,* If the petitioners in any such petition fail to ask for any certain term of years in which such bonds shall be payable, then in case of such failure the board of county commissioners shall designate and determine the term of years for which such bonds shall issue and be payable. Such term to be not less than ten, nor more than twenty years. The county treasurer shall sell bonds at not less than their face value, and the proceeds shall be kept as a separate and specific fund to pay for the construction of the particular road or roads for which they were issued, and shall be paid by him to the contractor upon warrant of the auditor, as directed by the board of commissioners. The commissioners shall order the same to be paid in such amount and at such times as they may agree, but no payment shall be made by the commissioners for more than eighty (80) per cent. of the engineer's estimate of work done by the contractor, nor shall the whole amount of the contract be paid until the road shall have been received as completed by the board of county commissioners.

Tax to Pay Bonds.

SEC. 76. For the purpose of raising money to meet said bonds and interest thereon, the board of commissioners shall annually thereafter, at the time the general tax levy is made, levy a special tax upon the property of the township or townships, including the towns and cities, if such there be, of less than thirty thousand (30,000) inhabitants, in such manner as to meet the principal and interest of said bonds as they become due, and such tax shall be collected as other taxes, and shall be applied to the payment of such bonds and interest. If the road or section thereof so constructed runs into or through two or more townships, the amount paid thereof [thereon] shall be divided and charged upon the

property of each township, in the same ratio that the assessed valuation of all the property in each township bears to the assessed valuation of all of the property in all of the townships through which the said road or roads runs, and said special tax be levied accordingly. That when any contract shall have been awarded to any contractor for the construction of said road or roads under this act he shall give preference in employing labor for the construction of said road or roads to the citizens of the township or townships, towns or cities in which said road or roads are to be constructed: *Provided, however,* That said preferred labor shall be as good and effective as that which could be procured elsewhere, and at no higher cost: *And provided further,* That any taxpayer of the township or townships where said roads are, who may render any service or labor, or may furnish any material for the construction of said roads, may, if he shall so elect, demand of the contractor a certificate stating the value of the amount of service or material furnished, and if any such certificate shall be issued the county treasurer shall receive the same and it shall act as a quietus against a similar amount of taxes against the property of said taxpayer, and all such certificates shall be deducted from the contract price of the said road or roads by said contractor.

Free of Toll—Repair.

SEC. 77. All roads built under this act shall be free of toll, and shall be kept in repair the same as other free gravel roads constructed under the other laws of the state are repaired.

Surplus Tax.

SEC. 78. After the payment of the costs of construction of said road or roads, should there be any surplus collected or due on delinquent taxes for that purpose, it shall be transferred to the gravel road repair fund.

Amendments—Superintendent—Bond.

SEC. 79. The board of county commissioners shall have power to permit amendments to be made to the petition of said freeholders, or report of viewers and to extend the time to the viewers to make their report and to continue the hearing from time to time, so as to subserve the ends of justice. It shall be the duty of the board of county commissioners to appoint a competent superintendent to supervise the construction of such road or roads according to the plans, profiles and specifications filed by the engineer and viewers, on which the contract to construct such road or roads was let. He shall be a resident of one of the townships in which the road or roads are located, and his compensation shall not exceed two dollars ($2.00) per day for the time actually employed, to be

paid out of the construction fund of said road or roads, and he shall render an account of his time to the commissioners monthly at the regular term of their court, subscribed by oath. He shall give bond in the penal sum of five thousand dollars for the faithful discharge of his duties. The engineer of such road or roads shall also give bond in the penal sum of six thousand dollars for the faithful discharge of his duties, and said superintendent or engineer or both if in default, shall be liable to the township or townships constructing such road or roads on such bond or bonds at the suit of any taxpayer interested in such road or roads for failure to cause said road or roads to be built and constructed according to the plans, profile and specifications under which the contract to construct the same was let.

Record—County Auditor.

SEC. 80. The county auditor shall make a complete record of all proceedings in making such improvements.

Limit as to Bonds.

SEC. 81. It shall be unlawful for any board of county commissioners to issue bonds, or any other evidence of indebtedness payable by taxation, for the construction of free gravel or macadamized roads, when the total issue for that purpose, including bonds already issued and to be issued, is in excess of four (4) per centum of the total assessed taxable valuation of the property of the township or townships wherein such roads are located or to be located, and all bonds or obligations issued in violation of this act shall be void.

Completion—Report—Finding—Appeal.

SEC. 82. Whenever any superintendent and the engineer of any road or roads constructed under the provisions of this act, believes that the road or any part thereof, less than the whole of such improvement is completed, as required and according to the plans, plats, profiles and contract, under which the improvement was let, then such superintendent and engineer shall each file their sworn statements with the auditor of the county, which sworn statements shall state that such road or roads, or part thereof, has been completed according to the plans, plats, profiles and contract, under which said improvement was let, and that the quantity and quality of material used in making said improvement was the kind of material, and that the quantity was used as required in the contract, the board of county commissioners shall not act on such proof of the completion of such road or roads or part thereof, until the said sworn statements have been filed with the auditor at least ten days before the first day of any regular term of said

board, and if, within said ten days, any taxpayer interested in such improvement shall file his sworn statement with the auditor that such road or roads or part thereof has not been completed according to the plans, plats, profiles, and contract under which such improvement was let, and states specifically in what particular the same has not been completed, then, in such case, the board of county commissioners shall set a day for hearing such issue and hear other proof on such matter, and may cause witnesses to be subpœnæd, and hear sworn evidence in the same manner as other issues are heard before the board of commissioners. And if the board of county commissioners find that such road or roads or part thereof, has been completed according to the plans, plats, profile, and contract under which such improvement was let, then such board of commissioners shall accept and receive such road or roads or part thereof, but if the board of county commissioners find that such road or roads or part thereof has not been so completed, then such board shall refuse to accept the same and require the contractor to complete the same according to the plans, plat, profiles and contract: *Be it further provided,* That if the board of commissioners find that such road or roads or part thereof has been completed according to contract, then in such case the taxpayer who filed his affidavit and formed said issue shall pay all costs, made in any such hearing, and a judgment shall be rendered against him for the same; but if they find that the road or roads or part thereof has not been completed according to contract, then the costs made in such hearing shall be paid by and judgment rendered against the contractor for the same: *Provided further,* That such taxpayer or contractor may appeal from such decision and finding of the board of commissioners to the circuit court of the county at any time within thirty days from such decision, upon filing a bond to the approval of the auditor of the county, conditioned for the payment of all costs in the cause that may be adjudged in the circuit court against the person taking such appeal, such proceedings to be tried de novo in the circuit court.

Additional Bonds.

SEC. 83. Whenever in any proceedings heretofore had under the provisions of an act of the general assembly of the State of Indiana entitled "An act concerning the location and construction of free gravel, stone or macadamized roads, providing for raising funds to pay for the same and for their maintenance, and providing for the repeal of other acts touching the same subject matter, and declaring an emergency," approved March 11, 1901, or under said act and acts amendatory thereof or supplemental thereto, the board of commissioners of any county shall have erroneously let a contract for the construction or improvement of any

free gravel, stone or macadamized road or roads, in any township, at a contract price, within the estimates made by the viewers, but in a sum so large as not to leave sufficient of the funds realized from the sale of bonds in the same proceedings to pay the sum named in said contract and also the other expenses incurred in such proceedings, such board of commissioners, for the purpose of raising money to meet such deficiency, shall issue and sell additional bonds of the county in an aggregate sum equal to such deficiency, but in no event in excess of five per centum of the original estimates in said proceedings, payable within five years, in the same manner, with interest at the same rate and out of funds raised by the same process, as in the case of other bonds issued in the same proceedings.

Purchase of Toll Roads—Petition—Appraisement—Payment.

SEC. 84. The board of commissioners of any county in this state, when petitioned so to do by one hundred freeholders of the county, may purchase any or all plank, gravel, macadamized and other toll roads in such county held or owned by any person, persons or corporation, and may pay for the same as hereinafter provided. Upon the filing of such petition, such board shall make an order directing that the road or roads named in such petition shall be appraised, and for that purpose shall appoint one appraiser, and request the judge of the circuit court of such county to appoint another, and the person, persons, company or corporation owning such road or roads, a third; whose duty it shall be to appraise such road, or roads, as hereinafter provided, and report such appraisement to such board of commissioners: *Provided, however,* That where such petition asks for the purchase of more than one road, the person, persons, company or corporation owning each road shall have the right to select one appraiser, who, with those selected by such board and judge, shall appraise the road owned by the person, persons or corporation appointing him. Such appraisers, in making an appraisement of any such road shall value it at its fair cash value, taking into consideration the manner of its construction, its condition as to repair and its net annual income, to be determined by the average amount thereof, for the five years next preceding such appraisement, as shown upon the books of such company, which average income they shall also report. After the return of such appraisement, which shall be filed with the county auditor, such auditor shall convene such board in special session, if it is not at the time in session, and shall notify the president of the company or the person or persons owning the road of the time of such meeting, and if such board and such owner or owners can agree upon terms, such board shall make an order upon its records for the purchase of such road or roads, setting

forth the price and manner of payment; which price shall in no case exceed the appraised value thereof. Whenever an agreement to purchase any such toll road has been entered into as herein provided, the purchase money may be paid, in whole or in part, out of the general funds in the county treasury appropriated therefor, and if the funds in the treasury that can be used for such purpose are not sufficient, the bonds of the county may be issued therefor in the usual form, bearing not to exceed six per cent. interest, to an amount sufficient to perfect such purpose, and falling due at such times as shall be determined, not exceeding ten years; and the county treasurer shall sell [such] bonds, in the same manner as other county bonds are sold, to procure the amount required, or may deliver the same to the vendor of such road in payment thereof: *Provided, however,* That no money shall be paid, or bonds delivered to such vendor until a conveyance has been made of such toll road, including its franchises, to such county. And when so conveyed, such road shall thenceforth be free, and shall be kept in repair, as provided by law for the repair of other roads.

Board of Directors—County Commissioners—Districts.

SEC. 85. By virtue of their office, the commissioners of each county in this state are hereby constituted a board of directors for all free gravel, macadam and turnpike roads in such county, under whose management and control all such roads are hereby exclusively placed. Such board shall purchase all material necessary to keep such roads in repair; such material to be purchased in accordance with the provisions of law relating to the purchase of supplies by boards of commissioners. The county auditor shall be clerk of such board and keep its records in a book provided for that purpose. It shall be the duty of such board of directors to divide the free gravel, macadam and turnpike roads of such county into three districts, each district to contain as nearly as practicable the same number of miles of such roads. Such directors shall by agreement assign one of their number to each of such districts, and such director shall have entire charge of the district so assigned to him. Such director shall employ all labor and make all contracts necessary to keep the district under his control in repair, and also make such improvements in such roads, and make such contracts therefor, as the board of directors may authorize. He shall oversee and superintend the labor employed and see that faithful work is done.

Superintendents—Bonds.

SEC. 86. Such board of directors may divide the free turnpikes in each of such districts, so as to appoint superintendents

therein on the basis of one superintendent for not less than ten, nor more than fifteen miles of free gravel road therein: *Provided,* That where any district may contain, in the aggregate, less than ten miles of free gravel road the board may, in its discretion, appoint one superintendent thereof; such superintendents so appointed shall execute a bond to the State of Indiana for the use of the board of commissioners of such county in any sum not less than five hundred dollars, nor more than one thousand dollars, for the faithful performance of their duties as such superintendents; such bonds to be approved and the amount thereof fixed by such commissioners.

Duties of Superintendents—Pay.

SEC. 87. Each superintendent, under order of the director in charge of his district, shall have charge of the repairs on his division of roads, and shall under such order have the employment of labor to keep such roads in repair; and he shall also oversee and superintend all labor employed and material used and see that proper material is furnished and that faithful work is done. He shall file necessary affidavits against persons violating the laws against heavy hauling on highways and see to the enforcement of all laws relating to the cutting of weeds along such highways. Each of such superintendents shall receive as compensation for his services not to exceed twenty-two and one-half cents per hour for his work done in person, and if he drives or uses his own team, with wagon or other implements, he shall receive not to exceed thirty cents per hour, but any such superintendent shall not use more than one team of his own. Such boards of directors are authorized to adopt rules and regulations concerning the work on gravel and macadamized roads and turnpikes in their respective counties, not conflicting with any provisions herein, and all superintendents and men employed shall be governed thereby in all gravel road and turnpike work.

Preference to Laborers—Pay—Purchase of Materials.

SEC. 88. Such directors or superintendents in employing labor on roads shall give preference, when the same is equal in character and price with that to be had elsewhere, to the land-owners and laborers along the line of such road; and such directors or superintendents shall each keep a complete and itemized time-book, showing each laborer employed and all material purchased and placed on his said roads; which said time-book shall be produced to the board of directors for its inspection and that of the general public, when any such director or superintendent makes his report to such board; which said report shall be made in writing, quarterly, on the last day of the month of March, June, September and

December of each year, and shall show the time and rate of compensation of each laborer, the dates thereof and the amount of any and all material and the purchase price of the same, placed on his said roads and when and where placed for the preceding quarter, and shall also show all sums paid on contracts, which contracts shall be filed with such report. Such report must be signed and sworn to; and, when filed, shall be preserved by the auditor, and be open to inspection by the general public at all times. Each of such commissioners shall receive for his annual services as such gravel road director, ten cents for each mile of gravel road or turnpike road in his county, which compensation shall be paid quarterly. All such fees are to be paid out of the free gravel road repair fund.

Materials for Repairs—Superintendent.

SEC. 89. When the director or superintendent of any free gravel road or turnpike shall file his verified petition before the board of commissioners of his county at any regular session thereof, setting forth that in his opinion the interests of any such free gravel roads or turnpikes require an entry upon any land in such county to make drains or procure gravel, stone, timber or any other material necessary for the repair of such free gravel road or turnpike and giving a description of the land to be entered upon, together with the name of the owner, and the probable amount of drainage or material required, together with the probable cost of the same; such board after having satisfactory proof that due notice, in writing, of the presenting of such petition has been served upon such land owner or the occupant of such land for at least ten days before the presenting of such petition, shall thereupon appoint three disinterested freeholders of the county, who, after being duly sworn, shall proceed upon such land and hear evidence and view the premises, and make written report, under oath, to such board at its next regular session, showing the amount of damages such land owner will sustain by reason of the appropriation of such drainage or materials for such purpose; and thereupon such board shall allow such amount specified by such viewers' report and cause the auditor to issue his warrant for such sum to such land owner; and such board shall also cause the auditor to issue his warrant for the reasonable charge of such viewers in doing such work, which damages and expenses shall be paid by such county out of the gravel road repair fund, and thereupon such director or superintendent shall have the right to immediate entry upon such land to make such drainage and take and use such materials for such purpose. Such land owner if he deem such amount so allowed inadequate for the payment of his said damages, shall have the right of an appeal to the circuit court from such order allowing and assessing such

damages, in like manner as other appeals are now allowed to be taken from the board of commissioners to the circuit court.

Gravel Road Fund—Tax Levy—Compensations.

SEC. 90. In any county in which free gravel, macadamized or turnpike roads are maintained under the commissioners of such county, acting as a board of directors of such road, as provided in the last preceding five sections, the said board of commissioners shall annually levy upon all taxable property of such county such sum as such commissioners shall deem necessary for the repairs of such roads, not to exceed one cent upon each one hundred dollars of such taxable property for every ten miles of free gravel, macadamized or turnpike roads completed in such county, the proceeds of such levy to constitute a gravel road fund in the county treasury to be paid out only upon the order of the county auditor issued upon the certificate of the board of directors of such gravel, macadamized and turnpike roads. The compensation of such gravel road directors for their services as such shall be three dollars per day for the time actually served, which shall be in addition to the ten cents per mile hereinbefore provided for. The compensation of each superintendent, or director acting as such, shall be subject to the agreement of the board of directors, not to exceed two dollars per day. All such compensation is to be paid out of the gravel road fund.

REPAIR OF HIGHWAYS.

Supervisors—Election—Pay—Districts.

SEC. 91. The qualified voters in each road district of the several townships of the several counties in the state shall, on the second Saturday after the first Monday in December, 1905, and every two years thereafter, elect a supervisor who shall hold his office for the term of two years and until his successor is elected and qualified. Road districts shall not be held to include any part or parts of cities or incorporated towns that may be in the township in which such road districts are located. Each supervisor shall receive the sum of one dollar and fifty cents per day for his services actually performed, not exceeding forty days in any one year to be paid out of the township treasury, but before receiving the same he shall file his sworn statement with the trustee of the township, which statement shall specify the days on which such services were performed: *Provided,* Such supervisor shall not be entitled to charge or receive any compensation whatever for a number of days equal to the number required of other persons of his road district liable to work on highways. Upon the taking effect of this act, if deemed necessary by any trustee of any township, such trustee shall divide his township into not more than four nor less

than two road districts as nearly equal in number of miles of road as practicable and appoint supervisors therefor, to hold their offices until their successors are elected and qualified, and if any additional road districts shall be created he shall appoint supervisors thereof to hold their offices until their successors shall be elected and qualified as herein provided; and whenever such trustee shall deem it necessary he may make any change in such road districts that may subserve public interests: *Provided,* That any change of the existing boundaries of road districts shall not be made except upon petition of six freeholders living in the immediate vicinity of the change proposed to be made. On dividing his township into road districts, or where any change is made therein, such trustee shall record a plat thereof in the highway record of his township, which shall show the roads and parts of roads belonging to each road district. Each supervisor shall at the time of his election or appointment be a qualified voter of the road district for which he is elected or appointed.

Notice of Election—How Conducted.

SEC. 92. The township trustee of each township shall on or before the first Monday in December, 1905, and every two years thereafter, post up or cause to be posted, in at least two public places in each road district of his township, written or printed notices of an election of supervisor of such road district, giving therein the place, day and hour at which such election is to be held. The day and hour of such election shall be the same in each road district of the township. The place of such election shall, if practicable, be a schoolhouse, located in the road district. The township trustee shall act as inspector of the election in the road district in or nearest to which he resides, and shall name from among the qualified voters present two clerks, who shall, if possible, not both be of the same political party. Such clerks, with the trustee, shall form an election board to judge of the qualifications of voters, and shall collect or receive and shall count the ballots cast. If one or more members of the election board, or one or more freeholders among the qualified voters present shall challenge any one offering to vote, and declare under oath that such an one is not entitled to vote, giving reasons for such declaration, then, after the one offering to vote and challenged as aforesaid shall have been given an opportunity to reply and to declare under oath his qualifications, if such one or more members of such election board or such one or more freeholders among the qualified voters present persist in their challenge and declarations, the one thus challenged shall not be allowed to vote unless a freeholder among the qualified voters present shall declare under oath that such challenged voter is entitled to vote in that road district at that election. For the elec-

tion of supervisor in each road district of his township, other than the one in or nearest to which he resides, the trustee shall name an inspector of election, and such inspector shall name two clerks, of different political parties, if possible, from among the qualified voters present. Such inspector shall be a freeholder in the road district in which the election is held. The inspector and the two clerks shall constitute an election board to judge, as heretofore provided, of the qualifications of voters, and to receive or collect and to count the ballots cast. Such inspector or trustee shall be authorized to administer all necessary oaths in relation to such election. The inspector and clerks provided for in this act shall serve without pay, but the township trustee shall be entitled to his regular pay for one day for the day on which the notices aforesaid are posted up and for one day for the day on which he files reports of election of supervisors with the auditor of the county. The trustee shall provide paper for ballots and for the clerks in their count of such ballots. The trustee or inspector shall be present promptly at the place and hour named in the notice of election, and if the said trustee or inspector shall not appear within fifteen minutes after the time set, then the qualified voters present shall select a freeholder from their number as inspector. The polls shall close two hours after the trustee or inspector shall have announced that the polls are open, if all voters present have voted, or have been given an opportunity to vote, provided that the election board may close the polls sooner if all voters present have voted or have been given an opportunity to vote, and no vote has been cast for ten minutes. Immediately upon the announcement that the polls are closed, the election board shall proceed to count the ballots, and during the count all voters shall be excluded from the room in which the count is made, excepting only the election board and two watchers, who may be named, one by each of the clerks. The person receiving the highest number of votes cast shall be deemed to be elected. Only those ballots shall be counted which contain the name of but one person, and mistakes in spelling or in initials shall not prevent the ballot from being counted where the intent of the voter is evident; all counted or uncounted ballots shall be preserved under seal by the trustee until June following the day of election. Ballots may be either written or printed. When the count is completed the trustee or inspector shall at once announce the result and the trustee shall issue a certificate to the person so elected. The inspector of each district other than that of which the township trustee is inspector shall file with such trustee the report of election in his district, together with all papers and ballots. The trustee shall within three days file with the auditor of such county a report of all elections of supervisors held in such trustee's town-

ship, which report shall be certified to, in the case of each road district, by the members of the election board in such district.

Vacancies—How Filled—Exemption.

SEC. 93. When there shall be a failure to elect a supervisor for any district, and also in case a vacancy shall occur in such office for any cause, the trustee of the township in which such district is situated, as soon as he is informed of such failure or vacancy, shall appoint a supervisor who shall hold his office until the next biennial election; and when an appointment of supervisor is made by such trustee he shall make out a certificate of such appointment and deliver the same, within three days after such appointment, to the person so appointed. Any person may be exempt from serving as such supervisor by paying into the township treasury the sum of six dollars, and in such case, the vacancy shall be filled as hereinbefore provided; but no person shall be compelled to serve oftener than one term in six years.

Oath and Bond—Duties—Vacancy.

SEC. 94. Such supervisor shall take an oath, before entering upon the discharge of his duties, for the faithful performance thereof, and give a bond with surety, to be approved by the township trustee and conditioned for the faithful discharge of his duties, in a sum not less than two hundred dollars, which bond shall be deposited with the township trustee. He shall carry into effect all orders of the trustee of the township in which the roads district is situated, touching the highways and bridges therein, and keep the same in good rapair. He shall also call out all persons in such district liable to work on highways therein, superintend the labor thereon, see that the same is faithfully performed and report to the trustee all fines and commutation moneys due such district and the same shall be collected by such trustee: *Provided,* That if any person elected or appointed supervisor shall be unable to give such bond, such inability shall be a defense to the collection of the forfeiture provided for in the preceding section, and the township trustee shall appoint some one else as supervisor.

Who Required to Work—Time.

SEC. 95. Such supervisor shall call out all able-bodied male persons, except insane, idiotic, deaf and dumb, and blind persons, who are residents of such district and are over the age of twenty-one years, and under fifty years of age, and not exempt from such labor, during not less than two nor more than four days of each year, between the first day of may and the first day of December of each year. The supervisor shall require such persons to work on the highways of such district eight hours each day, and to furnish

in such labor any tool that the supervisor may direct, if the demand therefor be a reasonable one. Any person able to perform an ordinary day's labor shall be deemed able-bodied, within the meaning of this act, although the person may be in some respects disabled: *Provided,* That no person who served in the army or navy of the United States during the war for the Union or the war with Spain or in the Philippine Islands, and who was honorably discharged therefrom, shall be required to labor on the public highways.

Teams—Credits.

SEC. 96. Such supervisor may require any person liable to work on such highways who is the owner of an ox, mule or horse team, road scraper, road scoop, cart or wagon to furnish the same, and a driver, in such labor on such highways, and such person shall receive credit for two days' labor for each day's service by such driver and team, and shall be given a receipt by such supervisor accordingly.

False Credits—Penalty.

SEC. 97. Any road supervisor who shall issue and deliver to any person his receipt, giving credit for work done on highways in his district, when such person to whom, or for whom such receipt is issued, has not actually worked or caused work to be done for the full time that such receipt gives credit for at the rate of eight hours for one day's work or has not paid the commutation money as provided by law, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than ten dollars nor more than fifty dollars for every such receipt so issued.

Notice of Work.

SEC. 98. Such supervisor shall notify each person in his road district liable to work on the highways thereof of the time and place of working on such highways, at least three days prior to the time designated for such work. Such notice may be verbal or written, and if written shall be left at the residence of the person so notified.

Exemption from Labor.

SEC. 99. On application to the township trustee any person liable to work on the highways may be exempt therefrom if it be shown that he is unable from bodily infirmities to work thereon and that he is too poor to pay the commutation therefor; also any person who is a bona fide member of a legally organized fire company, located in any city or town in this state. And in such cases the township trustee shall execute to such person a certificate, which shall, on being presented to the supervisor, entitle him to such exemption.

Commutation Money—Use.

SEC. 100. Any person liable to work on the highways may be exempt therefrom by paying to the supervisor of his road district one dollar and fifty cents for each day he is liable to work thereon, and in that case he shall receive a receipt therefor from the supervisor. Such supervisor shall be authorized to employ some person or persons to work out such money, at the rate of one dollar and fifty cents per day, on the roads of his district; or, failing so to do, he shall pay over all such money into the township treasury, for the benefit of the road district.

Failure to Work—Penalty.

SEC. 101. Every supervisor, within ten days after warning out the hands liable to work in his district, shall notify the trustee, who shall bring suit before any justice of the peace of the township in which such district is situated, and in the name of such township, against such persons as fail to work or pay over the commutation money therefor; and in such suit it shall be necessary to file only an account stating the number of days which each of such persons so failed to work or pay for, and charging one dollar and fifty cents per day each therefor; and in case of a recovery against any such defendant, the judgment shall be rendered for one dollar and fifty cents for every day the defendant so failed, and costs of suit, and no stay of execution or benefit of exemption, valuation or appraisement laws shall be allowed on such judgment. In case any such trustee shall fail to bring suit, after having been so notified by such supervisor, he shall forfeit and pay the sum of ten dollars, to be recovered in an action brought by the prosecuting attorney, before any justice of the peace of the township, in the name thereof; and all money so recovered under the provisions of this section shall be received and expended under the direction of the township trustee by the proper supervisor in the improvement of the highways of his district: *Provided,* That any such trustee shall not be required to bring suit against any person from whom there is no probability of collecting, or who, at the time of working, shall be sick or otherwise unable to labor. If such person so temporarily sick or disabled be liable to pay commutation, he shall so pay, or the trustee shall sue therefor within sixty days. No person able to pay commutation shall be exempt on account of bodily disability.

Substitutes.

SEC. 102. Any person liable to perform labor on the public highways, when notified for such purpose, may appear in person or by an able-bodied substitute, and the person or substitute so appearing shall actually work eight hours each day, under penalties

of twenty-five cents for every hour such person or substitute shall be in default, to be deducted by the supervisors from the price of the day's labor.

Idling—Penalty.

SEC. 103. If any such person or his substitute, after appearing, shall remain idle or not work faithfully, or shall hinder others from working, such offender shall, for every such offense, forfeit the sum of one dollar and fifty cents, to be collected from such person as other fines and forfeitures herein specified, and such person or his substitute shall be discharged by the supervisor without credit for any part of the work he may have done.

Repairs—How Made.

SEC. 104. Such supervisor, within ten days after the receipt of any money which he is not required to pay over to the township trustee, shall proceed to employ laborers to repair the highways in his district, but shall not pay more to such laborers than is customary in his district for similar services, and such supervisor shall superintend such repairs; but in no case shall such supervisor neglect to repair such highways, and if such labor shall be insufficient therefor, he shall call out the hands in his district to complete such repairing. If any person so called out shall refuse to work, he shall be liable to pay the commutation money therefor, and it shall be the duty of the trustee to bring suit for the same as provided in section one hundred and one of this act.

Extra Labor—Credit.

SEC. 105. When such extra labor provided for in the next preceding section shall not require all the hands in the district, or an equal amount of labor from each, the supervisor may assess the same upon such hands as he may deem sufficient, and for the excess of work performed by any one over the average amount performed by all he shall give to each person performing such excess a certificate of the amount thereof, which shall be credited to the holder on account of any subsequent labor to be done by him on the highways in his district.

Entry on Land—Damages Assessed—Appeal.

SEC. 106. The supervisor, or any other person by his order, may enter upon any land adjoining or near to any highway in his district, and thereupon construct such ditches, drains and dams, and dig and remove such gravel, earth, sand or stone, or cut and remove such wood or trees as may be necessary for the proper construction, repair or preservation of such highways; and the supervisor, together with two disinterested persons, shall proceed at

once to the locality and assess such damages in favor of the owner of the lands thereof, as in their judgment seem right and proper, and report the same under oath, within ten days after such assessment, to the trustee, having first given notice thereof to the party damaged, and such trustee shall pay the damages assessed out of the township treasury. The oath to such appraisers may be administered by the supervisor, and the oath to the supervisor may be administered by the trustee. No person's land shall be entered when material can be found on the roadway, or convenient in the district on the roadways thereof, nor when drainage can be made on the roadway, at a cost not exceeding the cost and damages of entering upon private lands. In all cases comtemplated in this section, demand shall first be made of the owner of the land before entering thereon or taking material. If he assent, he may point out the material and the location from which it is to be taken, and, if accessible and fit for the purpose intended, the material shall be there taken. If consent be refused by the owner, the supervisor shall notify such owner of his intention to so enter, for what purpose and for what time, and point out the land to be occupied, or the material to be taken. In all assessments of damages the owner shall be notified, and have leave to select one appraiser, and shall have notice of the time and place of the meeting of the appraisers, and privilege to offer evidence as to damages at the time of the assessment by the appraisers: *Provided, also,* That any person aggrieved may appeal from the action of the appraisers to any justice of the peace of the township, by giving notice in writing to the road supervisor. Such notice must be given within ten days after final action by the appraisers, and such person shall give bond within thirty days after final action by the appraisers. Such bond shall be payable to the trustee, and shall be filed with and approved by the appraisers, and thereupon the papers shall be delivered to the justice of the peace; and such appeal shall be determined as other questions are determined in civil cases before justices of the peace.

Obstruction—Removal.

SEC. 107. When a public highway, running through or bordering upon a tract of real estate, shall become obstructed, the owner or occupant of such land shall remove such obstruction as soon as the same shall come to his knowledge, for which the proper supervisor shall allow him a reasonable credit on his liability to work on the highways, unless the obstruction be caused by the act of such owner or occupant, in which case he will be required to remove the same without any credit.

Trees—Ownership.

SEC. 108. All trees standing or lying on the land over which any highway shall be laid out, which it shall be necessary to remove in the opening of such highway, shall belong to the owner of such land, if he shall remove the same before the supervisor is required to open such highway; but all such trees and down timber, or other material found on such premises, may be taken and used by the proper supervisor for the construction or repair of the highway or of any bridge thereon.

Bridge or Culvert.

SEC. 109. If the township trustee of the township where any proposed bridge or culvert is to be located or repaired shall notify the board of commissioners of his county of the necessity of such location or repair, and if in the opinion of the commissioners the public convenience shall require the building or repairing thereof, they shall cause surveys and estimates to be made and provide for the erection of the same: *Provided,* That if the board of commissioners shall not deem such bridge or culvert of sufficient importance to justify an appropriation from the county treasury for the building or repair thereof, the trustee of the township in which is located such bridge or culvert may appropriate any part of the road fund in the township treasury for that purpose, if he shall deem it right and expedient to do so.

Levy of Road Tax—How Paid.

SEC. 110. The township advisory board, on an estimate made by the township trustee, shall levy annually on or before the first Tuesday in June a road tax of not more than thirty cents on one hundred dollars to be levied according to the amount of real and personal property owned in such township, outside of the corporate cities and towns subject to taxation for road purposes, to be collected as other taxes are collected, except all road taxes are to be collected with the first yearly installment of taxes: *Provided, however,* That the taxes so assessed on real estate shall be worked out, as near as practicable, in the road district in which such real estate lies, and the taxes assessed on the personal property in the district where the owner resides, at the rate of one dollar and fifty cents per day for each man. Such supervisor may require any person liable to work on such highways who is the owner of an ox, mule or horse, team and plow, road scraper, road scoop, cart or wagon to furnish the same, and a driver, in such labor upon such highways, and such person shall receive a credit for two days' labor therefor, and shall be receipted by such supervisor accordingly: *Provided, further,* That the township trustee may, with the consent of the township advisory board, levy an additional tax, not to exceed ten

cents on one hundred dollars' valuation, to be paid into the county treasury with the first installment of taxes and to be paid by the treasurer to the township trustee, to be expended for the construction and repair of bridges and culverts and for other road purposes. It shall be the duty of the county auditor to procure and deliver each year, on or before the 10th of September to the proper township trustee, a list of all road taxes assessed on each individual in his township, and the receipt of the supervisor of the proper district for the amount worked out by any taxpayer shall be taken by the treasurer of the county in payment of so much of said taxes, if presented during the year in which the labor has been performed, or the year following upon the performance of said labor. No supervisor shall issue receipt for work performed by himself, except for his own road tax, and no county treasurer shall receive the certificate of any supervisor except in payment of taxes on which the work shall be performed: *And, provided further,* That the taxes so assessed on the real estate and personal property shall be worked out, as near as practicable, in the road district in which said real estate is situate, and the personal property under the supervision of the supervisor of the district where said labor is performed, in the district in which the owner resides, upon three days' notice of the time and place such labor is to be performed: *Provided, further,* That the road tax assessed on real and personal property shall be worked out on or before the first day of December of the year for which the levy was made. All credits allowed by county treasurers for road taxes worked out, upon settlement with the township trustee, to be properly distributed and charged, and road supervisors are required to make out and deliver to the township trustee, on or before the first day of December in each year, a statement containing a true list of persons of their respective road districts having worked out their road tax, or any part thereof, during the year, together with the amount worked out by each person.

Expenditure of Road Tax.

SEC. 111. The township trustee shall order the expenditure of the funds derived from the tax provided for in the last section in the improvement of the highways of his township under such regulations as he may deem expedient for the public interest, and for this purpose shall pay such sums as may be necessary, on the order of the supervisors of the township, for work done by them under his direction. Such order or orders drawn upon the trustee shall distinctly state the services performed by the person or persons to whom the order is given.

Letting Work by Contract.

SEC. 112. Such trustee may let out the work contemplated in the last preceding section to the lowest responsible bidder, and for this purpose he may cause notices to be posted up in three of the most public places in the township, that proposals will be received under such regulations as he may prescribe, at a time and place to be by him designated, for the improvement or repair of all the highways and bridges, or any part thereof, in such township; and in all such cases such trustee shall adopt such regulations as to the extent of the improvements or repairs, terms of payments, superintendence of the work, and the time of commencement and completion thereof, as he may deem proper. Payments on such contracts, according to the terms thereof, shall be made by the trustee out of the road or bridge funds in his hands.

Injuring or Obstructing Highway—Penalty.

SEC. 113. Any person who shall injure any dam, drain, embankment, ditch or other construction made for the protection of any highway or bridge, or who shall wilfully destroy any guidepost, or deface any inscription or device thereon, or who shall unnecessarily, and to the hindrance of passengers, obstruct any highway or bridge, and who shall, when driving any vehicle, fail to pass to the right when meeting another vehicle, so as to allow it to pass without injury, for every such offense, shall forfeit the sum of five dollars, to be recovered by the trustee in the name of the township before a justice of the peace of the county; and for every day such obstruction is continued the same sum shall be recovered. In all such cases such trustee, within three days after receiving information of any such offense, shall commence such suit, and the sum recovered thereon shall be used for the benefit of the highways of such township. In case of a recovery in any such action the justice of the peace shall tax, as costs, the sum of five dollars as attorney's fees for plaintiff's attorney.

Suit by Successor.

SEC. 114. All such suits commenced by one trustee may be continued by his successor in office, and no costs shall be taxed against him therein. Any supervisor who shall fail to use due diligence in keeping the highways of his district in good repair, under the regulations herein prescribed; or who shall fail to call out the hands of his district to work on the highways thereof the number of days herein prescribed, unless the tax assessed for such repair of such highway is sufficient; shall, for every such offense, forfeit the sum of ten dollars, to be recovered before any justice of the peace of the county, in the name of the township, by the trustee of

such township; and all sums so recovered shall be for the benefit of the district for which such supervisor was elected or appointed, and such trustee shall bring suit within three days after receiving information of any such failure of duty by such supervisor.

Duties Continuous—Tools.

SEC. 115. Every supervisor shall hand over all books, papers and moneys, as well as all tools in his possession, to his successor in office when called for. Township trustee shall procure, with available road fund in their hands, such tools and implements as may be necessary for road districts.

Order of Work—Donation.

SEC. 116. In determining upon the amount and character of work which shall first be done on any highway, or part thereof, the township trustee shall take into consideration the importance of the highway to the traveling public, and its convenience to gravel, stone or other material to be used in its construction. Whenever the citizens interested in the permanent improvement of any highway of public importance, shall, by donation, properly ditch, drain, gravel, embank or otherwise improve any such highway, such trustee may contribute and perform work thereon equal in value to such donation, if he have the means in his hands to do so: *Provided, moreover,* That every township trustee shall set aside not less than five per cent. of the road funds received by him each year as an emergency fund, to be used in keeping in repair all highways in his township along or on which United States rural free delivery mail routes have been or may hereafter be established and maintained; and it shall be the duty of every such trustee, and of every road supervisor, to give the preference to such highways in keeping the same in repair. Such highways shall be kept properly drained and free from all obstructions, including snowdrifts, so as to be at all times in good condition for ordinary travel.

Oaths.

SEC. 117. Each township [trustee] is empowered to administer oath in all cases touching the prosecution of the business of the township of which he is trustee.

Disbursements of Road Fund.

SEC. 118. All road money on hand or that may hereafter be paid to the county treasurer under the provisions of this or of any previous act, shall be paid to the proper township trustee, and be expended by him as other road funds are required by this act.

Supervisor's Report.

SEC. 119. Each supervisor of each road district shall, on or before the first day of December in each year, make a full and succinct report, under oath, of his proceedings, showing the names of all persons liable to perform, or who have performed, labor on the roads in his district; the amount of commutation money received, from whom received, and the amount of money received from any and all sources whatever, and how the same has been expended; and shall pay such balance to and file such report with the trustee of his township on that day.

Reports Audited.

SEC. 120. Such township trustee shall audit the reports referred to in the last section, and enforce the payment of any such balance, and compel such report by suit.

Responsibility for Tools.

SEC. 121. Every road supervisor shall be responsible for the care and safe-keeping of all the tools belonging to his road district, and on going out of office shall report the number and kind of tools in his hands to the trustee of his township, under oath; and such trustee shall charge each supervisor, on coming into office, with the whole amount of tools in his district, as shown by the statement of his predecessor in office. Such supervisor shall be liable for any loss of, or damage to the tools belonging to his road district, occasioned by his neglect, to be recovered in the name of his township, upon complaint of the trustee of such township before any justice of the peace therein.

Roads on Division Lines.

SEC. 122. All roads running on township, county or road district lines are assigned for construction and repairs as follows: On roads running north and south, the north half is assigned to the township or townships and district or districts on the west side of such line, and the south half is assigned to the township or townships and district or districts on the east side of such lines; and on roads running east and west, the west half is assigned to the township or townships and district or districts on the south side of such line, and the east half to the township or townships and district or districts on the north side of such line. And the highways so assigned shall be under the control of and be kept in order by the township trustee of the township to which they are assigned. All roads running on lines dividing this state from other states shall be worked in conjunction with such other state, and shall be assigned for construction and repairs in the same manner as above provided in cases where roads run on township or county lines, as far as applicable.

Appeal to Circuit Court—Effect of Act.

SEC. 123. Except as otherwise provided in this act, any person aggrieved by any decision of the board of commissioners of any county, in any proceeding in relation to highways, may appeal therefrom within thirty days thereafter to the circuit court of such county, by filing a bond, with surety and penalty, to be approved by the auditor of such county, conditioned for the due prosecution of such appeal, and the payment of costs, if costs be adjudged against him; and in case proceedings shall be had in more than one county, the appeal shall be to the circuit court of the county in which the proceedings were first instituted, and the auditor of each county, on being notified of such appeal by the auditor of the county in which the appeal is taken, shall transmit to the clerk of the court to which the appeal is taken a transcript of all the proceedings in such county; and upon the determination of such appeal such clerk shall give notice thereof to the auditors of all the counties interested. Such appeal shall be tried de novo, and may be had as to any issue [tried], or that might have been tried, before the county board; but every report made to the board by viewers or reviewers or by any committee, body or officer, under the provisions of this act, shall be considered in evidence on such appeal. The court may make final determination of the cause so appealed, or may refer the case back to the county board or boards, with directions how to proceed. This act shall not have the effect to release any penalty, forfeiture or liability incurred under any former statute, nor shall it affect any pending litigation or proceedings, but the same shall be concluded and be effective in all respects as if this act had not been passed.

Chapter 168.

AN ACT to amend section 13 of an act entitled "An act to authorize and encourage the construction of levees and dykes, and the reclamation of wet and overflowed lands by incorporated associations, and providing for the organization of such associations and prescribing their powers, and providing for the assessment of the cost of such improvement and expenses attending the same, upon the lands benefited thereby, and for the collection of such assessments, and declaring an emergency," approved March 5, 1889, and section 1 of an act entitled an act to amend sections 1, 12, 23, 24, 29 and 30 of an act entitled "An act to authorize and encourage the construction of drains and dykes, and the reclamation of wet and overflowed lands by incorporated associations, and providing for the organization of such associations and prescribing their powers, and providing for the assessment of the cost of such improvements and expenses attending the same, upon the lands benefited thereby, and for the collection of said assessments, and declaring an emergency, and approved March 5, 1889, so that said act when so amended shall authorize any county to issue bonds for such work to run not exceeding fifteen years, and at an annual interest not exceeding six per cent., and so as to include in such work any ditch, open or covered, with appropriate waste gates for letting off overflows, and to include and appropriate any work for such purpose of reclaiming such lands, which may have been made in pursuance of any other or former law, and to provide for the refunding to the county such money so advanced to construct such work, and declaring an emergency," approved March 14, 1895, and declaring an emergency.

[S. 276. Approved March 9, 1905.]

Amendment.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That section thirteen of the above entitled act, approved March 5, 1889, be amended to read as follows:

Levees and Dykes—Incorporated Associations—Petition, Etc.

Section 13. The board of directors may then apply to the board of commissioners of each county into which any part of the proposed work shall extend, and shall present to the said board of commissioners a petition signed by a majority of the resident land owners in such county, including members of the corporation of each county interested in the proposed work, praying for the appointment of appraisers, and on proof that a majority of such land owners are petitioners therefor, it shall be the duty of the board of county commissioners to appoint in each county three appraisers, not members of the association, or in any way interested in the proposed work, to the lands in that county affected thereby. The appraisers shall be furnished a copy of the plan and profile of the proposed work, to appraise the benefits and

injuries which will result from the proposed work, together with a certified copy of the order of the board of commissioners for their appointment. Such appointment shall authorize said appraisers to meet at such time and place in said county for the purpose of making their appraisement as shall be fixed by the directors of such association. If any one of such appraisers shall die, remove from the county or decline to act, his place shall be supplied by the board of commissioners.

Articles of Association.

SEC. 2. That section 1 of the above entitled act, approved March 14, 1895, be amended to read as follows:

Section 1. That any number of persons, not less than five, who may be interested in constructing any levee, dyke or breakwater, ditch, open or covered, waste gates, or any work necessary to be efficient drainage and protection against overflow of land, subject thereto, may associate themselves together and adopt and subscribe articles which shall specify the name and objects of the association.

Survey—Description of Work—Estimate.

Section 12. Before causing said work to be commenced, or any assessment made therefor, the board of directors shall cause a careful survey of the proposed work, and have specifications thereof showing the height of levee, dyke or breakwater, above low water mark of any stream that overflows the lands against which such work is to protect the same, the inclination or gradient of the top, width of top or crown, slope of the sides, the altitude of ditch bottoms, relative to permanent "bench marks," slope of sides, width of bottom, size of tiles, description of waste gates or automatic "shut-outs," and the exact location of each item of said work by bearings and distances with reference to well defined land corners in the vicinity, or other prominent and permanent objects along the several lines of location, so that a good and intelligent description of the work will be had. Such work may include and appropriate any work heretofore done for the same object and under any law of this state by any person or persons, association or corporation, allowing such parties just credits for the value thereof, not exceeding what the same work of equal efficiency can be made for at the time of construction of the work herein contemplated: *Provided,* That no railroad embankments shall be so appropriated without the consent of the controllers thereof. Such work shall be shown by plats, profiles, drafts, etc., as such work is usually shown by civil engineers, and if practicable be divided into sections of from one-eighth to one-half mile each in length for the convenience of letting contracts

for the construction thereof. The estimated cost of such work by sections, if so divided, and also by the whole, to which may be added the preliminary expenses, such as reasonable attorney's fees, engineer's and assessor's fees, advertising and other necessary and proper services, all of which work or proceedings shall at all times, during business hours, be open to the inspection of all persons interested therein.

Bonds for Construction.

Section 23. After all the preceding sections have been complied with, the directors of said association may apply to the board of county commissioners, at any regular session, to issue county bonds to raise the money to construct such work. The county commissioners, after being satisfied that the law has been complied with, shall cause the bonds of the county to be issued for the amount required to complete the work in such county, said bonds, running not to exceed fifteen years and at an annual interest not to exceed six per cent. payable semi-annually with the right to be paid after two years one-fifteenth of the whole amount, or such other part of the whole as the time to run may indicate, as one-twelfth, one-tenth, one-ninth, etc., as the case may be, to be paid each year; said bonds to be not less than one hundred dollars and not more than five hundred dollars each. The county treasurer may be designated to sell such bonds, not below their par value, if his bond as such treasurer be deemed by the county board sufficient to cover the amount, and if not sufficient then any bank or agency, which the board may deem responsible for the trust, may be elected to negotiate the sale of such bonds. Not more than one per cent. shall be paid to any party for selling said bonds and applying the proceeds thereof to the proper purposes. The money obtained from such bonds shall be paid to the treasurer of the association from time to time as the work progresses on the order of the board of directors. If any balance shall remain after the work is completed, such balance shall be covered into the county treasury and a pro rata credit entered on the tax duplicate to each party assessed for the construction of the work. Such bonds and interest may be paid at such time and place or places as the board of county commissioners may designate by their order. When the proposed work lies in two or more counties the amount of bonds issued by each such county shall be determined as follows: The board of commissioners shall meet in joint session in the county where the principal office of said association is situated and first determine the whole amount of bonds required to complete the proposed work, which amount shall be divided and apportioned to each county according to the amount to be paid on account of said work for the lands and roads in each such county.

Assessments—Defense to Tax.

Section 24. That to reimburse the county for the money so advanced to construct such work the county auditor shall place on the tax duplicate each year thereafter the annual amount due from each tract of land assessed as benefited, less whatever may have been assessed as damages to such tract on account of such work till such damage is paid, and the same shall be a lien on such land, and shall be collected as other state, county or township taxes are collected: *Provided*, That enough additional shall be levied to cover the annual interest each year: *And, provided further*, That no person assessed shall raise any question as to the validity of the tax so levied after it shall have been placed on the tax duplicate, which he might have raised under section twenty-one (21) of this act, but any person so assessed may show error of description of land, or amount demanded, if such error exist.

Repairs—Costs—Assessment.

Section 29. Whenever it shall be necessary to repair such work, so as to restore it to the condition of original construction, or for betterments not exceeding five per cent. of the original cost of construction, or in case that the cost of the original construction of such work, where done by the directors without a contract, though done as cheaply as possible, has by any washout been in excess of the estimate therefor not to exceed five per cent. thereof, the directors shall order their clerk to certify the cost of the same to the county auditor. On receipt of such certificate, the auditor shall draw his warrant on the county treasurer for the same, which shall be paid out of the county funds to the treasurer of said association: *Provided*, That such betterment shall not include any extension of the work to take in new land, but only such improvements as experience may show to be necessary to render the first work more safe and efficient. The auditor shall place the cost of such work as shown by the certificate on tax duplicates each year against the lands concerned in ratio of the original assessment, and cost, which is to be collected the same as the taxes for the state, county and township are collected, and said taxes, when collected, shall go to reimburse the county out of which the same was paid.

Emergency.

Sec. 4. An emergency is hereby declared to exist for the immediate taking effect of this act, and, therefore, it shall take effect and be in force from and after its passage.

CHAPTER 169.

AN ACT concerning public offenses.

[H. 61. APPROVED MARCH 10, 1905.]

DEFINITION.

Felonies—Misdemeanors.

SECTION 1. *Be it enacted by the general assembly of the State of Indiana,* That all crimes and public offenses which may be punished with death or imprisonment in the state prison shall be denominated felonies; all [and] all other offenses against the criminal law shall be denominated misdemeanors.

JURISDICTION.

Criminal Action—Place of Trial.

SEC. 2. Every criminal action shall be tried publicly in the county in which the offense shall have been committed, except as otherwise provided in this act.

Criminal Provocation—Place of Trial.

SEC. 3. Prosecutions against any person for the offense of criminal provocation, when the same are brought before a justice of the peace or city judge, shall be tried in the township where the defendant resides, or where the offense was committed: *Provided, however,* That changes of venue may be taken as in other cases.

Crime Consummated in State.

SEC. 4. Every person being without this state, committing or consummating an offense by an agent or means within the state, is liable to be punished by the laws thereof, in the same manner as if he were present, and had commenced and consummated the offense within the state.

Dueling—Without the State.

SEC. 5. Any person leaving this state to fight a duel, or to be concerned as a second therein or in any other capacity out of this state, may be punished in the county of his residence in the state, in the same manner as if the duel had been contemplated and fought, and the results thereof had terminated therein. And when any person, by previous appointment made within this state, fights a duel without this state, and, in so doing, inflicts a mortal wound upon any person who dies from the effects thereof in this state, the jurisdiction is in the county where such death shall happen.

On Water-Craft.

SEC. 6. When an offense is committed in this state or on the boundary thereof, on board a boat or vessel navigating a river, lake or canal, or lying therein, the jurisdiction is in any county within or opposite to which the offense was committed.

On Ohio and Wabash Rivers.

SEC. 7. The proper courts of the several counties in this state bordering on the Ohio river, and on the Wabash river as far up as said river forms the boundary line between this state and the state of Illinois, shall have jurisdiction of all offenses committed against the penal laws of this state on said rivers opposite to said counties respectively.

On or Near County Line.

SEC. 8. When a public offense has been committed partly in one county and partly in another, or the act or effects constituting or requisite to the consummation of the offense occur in two or more counties, the jurisdiction is in any one of such counties.

Lynching—Overt Acts.

SEC. 9. In case any persons shall come together in any county in this state for the purpose of proceeding to another county in the state, with the view of lynching any person; or in case any person or persons shall purchase or procure any rope, weapon or other instrument in one county for the purpose of being used in lynching any person in another county, such crime of lynching, if committed, shall be and constitute a continuous offense from the time of its original inception, or "from the time of so coming together, or so purchasing or procuring such rope, weapon or other instrument" as aforesaid; and the courts of any county in which any such overt act shall have been committed shall have jurisdiction over the person of any member of the mob committing such overt act, and such person may be prosecuted in such county and punished the same as if the lynching had occurred therein.

Stolen Property Brought Into County.

SEC. 10. When property taken in one county by burglary, robbery, larceny or embezzlement, has been brought into another county, the jurisdiction is in either county.

Receiver of Stolen Property.

SEC. 11. When any person is liable to prosecution as the buyer, receiver, concealer, or aider in the concealment, of personal property that has been feloniously stolen, taken, obtained by false pretense, or embezzled in any county, or state or territory of the United States, or foreign country, he may be prosecuted or in-

dicted in any county in this state where he bought, received, concealed, aided in concealing, or had such property, notwithstanding the theft, false pretense or embezzlement was committed in another county, or state or territory of the United States, or foreign country.

Mortal Wound or Poison.

SEC. 12. If any mortal wound be given or poison administered in one county, and death, by means thereof, ensue in another, the jurisdiction is in either county.

Kidnapping—Enticing Female—Concealing Children.

SEC. 13. The jurisdiction of the following cases is in any county in which the offense was committed, or into or out of which the person upon whom the offense was committed has been brought:

First. For unlawfully and forcibly or fraudulently taking, inveigling or kidnapping any person, or for aiding or abetting therein.

Second. For taking or enticing away any female, for the purpose of prostitution.

Third. For taking, decoying or enticing away a child under the age of fifteen years, with intent to detain and conceal it from its parents, guardian or other person having lawful charge of the child.

Transporting Game—Railroad Company.

SEC. 14. Prosecutions against any railroad company, express company, common carrier or person, for transporting game or birds in violation of law, may be had in any county where such game or birds shall have been received for transportation, or into which they may come for the purposes of, or during the course of, such transportation.

Libel by Publication.

SEC. 15. When the offense of libel is committed, by publication, in this state, against any person, the jurisdiction is in any county where the libel is published or circulated by the accused. In no case, however, can the accused be prosecuted for the publication of the same libel in more than one county of this state.

Judgment in Another State.

SEC. 16. When an act charged as a public offense is within the jurisdiction of another state, territory or country, as well as within the jurisdiction of this state, a conviction or acquittal thereof in the former is a bar to a prosecution or indictment therefor in this state.

Crime Consummated Outside State.

SEC. 17. Whoever with firearms, or by sending poison or other thing, or by other means, kills or injures any person in another county, state, territory or country; or whoever gives a mortal blow or wound to any person who dies in another county, state, territory or country, shall be tried and punished in the county where the offender was at the time the poison or other thing was sent, or the force was used, or the wound or injury was inflicted.

Treason Commenced in State.

SEC. 18. When the overt act of treason shall have been commenced in this state, and consummated within the limits of any other state, territory or country, the person charged therewith may be tried and convicted in any county in this state in which the treasonable acts charged shall have been commenced or committed.

LIMITATION OF PROSECUTIONS.

Treason—Murder—Arson—Kidnapping.

SEC. 19. Prosecutions for treason, murder, arson and kidnapping may be commenced at any time after the commission of the offense.

Incest—Rape—Robbery—Grand Larceny—Five Years.

SEC. 20. Prosecutions for incest, rape, robbery, grand larceny, and for knowingly receiving stolen goods, may be commenced at any time within five years after the commission of the offense.

Sabbath Desecration—Six Months.

SEC. 21. Prosecutions for the desecration of the Sabbath day must be commenced within six months after the commission of the offense.

Fine Not Exceeding $3—Sixty Days.

SEC. 22. Prosecutions for an offense must be commenced within sixty days after its commission where the penalty can not exceed a fine of three dollars.

Other Cases—Two Years.

SEC. 23. In all other cases, prosecutions for an offense must be commenced within two years after its commission. But prosecutions for the forgery of an instrument for the payment of money, or for the uttering of such forged instrument, may be brought within two years after the maturity thereof.

Party Absent or Concealed.

SEC. 24. If any person who has committed an offense, thereafter is absent from the state, or so conceals himself that process

can not be served upon him, or conceals the fact that the offense has been committed, the time of absence or concealment is not to be included in computing the period of limitation.

FUGITIVES FROM JUSTICE.

From Another County.

SEC. 25. If any person, having committed a crime in one county, shall be found in another, any justice of the peace within the county wherein such fugitive may be, shall, on the oath of any person charging such fugitive with such crime, either directly, or on the belief of the affiant, issue his warrant, and cause such fugitive to be arrested and brought before him; and, after evidence heard, if, in the opinion of such justice, the proof or [of] presumption is strong as to the guilt of the person charged, such justice shall issue his warrant to some constable or sheriff to convey such fugitive to the county in which he committed the offense charged against him, and deliver him to any justice in such county, together with the warrant of the justice before whom the said fugitive was examined. And it shall be the duty of such justice to whom the fugitive shall be delivered, to cause him to be committed to the custody of some constable or sheriff of the county for safe keeping, and to summon, forthwith, the person against whose person or property the said offense shall have been committed, or some witness thereto; and such justice shall, on the examination, be governed in all respects as though such affidavit had been filed with him in the first instance. And the constable who shall convey such fugitive from the county where he was first arrested to the county in which the offense was committed shall receive the same fees for such service as are by law allowed to sheriffs for like services, and subject to the same rules and conditions. The justice shall transmit by the constable a copy of the affidavit and proceedings had before him, and the same shall be delivered to the justice of the county in which the offense was committed.

From Another State—Warrant.

SEC. 26. Upon the demand of the executive authority of any state or territory of the United States upon the governor of this state, to surrender any fugitive from justice from such state or territory, pursuant to the constitution and laws of the United States, he shall issue his warrant, reciting the fact of such demand and the charge upon which it is based, with the time and place of the alleged commission of the offense, directed generally to any sheriff or constable of any county of this state, commanding him to apprehend such fugitive and bring him before the circuit, superior or criminal court or judge of this state nearest or most con-

venient of access to the place at which the arrest may be made; and such warrant may be executed by any sheriff or constable in this state, in his own county or in any other county in this state.

Identity of Person.

SEC. 27. The court or judge before whom such alleged fugitive shall be brought shall proceed, by the examination of witnesses, to ascertain if the person apprehended be the fugitive demanded, and mentioned in the warrant of the governor of this state; and if satisfied of the identity of the person, such court or judge shall order him to be delivered up to the agent of the state or territory demanding him, to be transported to such state or territory, agreeably to the laws of the United States; otherwise, he shall discharge such person from custody.

Commitment to Jail—Delivery to Agent.

SEC. 28. If no agent of the state or territory making the demand be present, the fugitive shall be committed to the jail of the county in which the hearing before such court or judge is had; and such court or judge shall forthwith inform the governor of this state of the fact of such commitment. And, on request by the agent of the state or territory making the demand upon the jailer having such fugitive in custody, and upon the order of the governor of this state, such fugitive shall be delivered up to such agent, to be transported to the state or territory from which he fled; and if such fugitive be not demanded within ten days after his commitment, the jailer shall discharge him.

Costs Paid Before Removal.

SEC. 29. All costs incurred in apprehending, securing and keeping such fugitive shall be paid by the agent of the state or territory making the demand, before he shall be permitted to receive such fugitive into custody.

Warrant Refused, When.

SEC. 30. If it shall be made to appear to the governor before issuing such warrant, that the alleged fugitive is held in custody or on bail to answer for any crime or misdemeanor against the laws of this state, the governor of this state shall thereupon refuse to issue such warrant, informing the executive authority of the state or territory making the demand of the grounds of such refusal.

Surrender Refused, When.

SEC. 31. If it shall appear to the court or judge before whom such examination is had, that the alleged fugitive is held in custody or on bail for any crime or misdemeanor against the laws of

this state, such court or judge shall, for that reason, refuse to make an order for the delivery or removal of such fugitive, and shall immediately report the facts to the governor of this state, who shall inform the governor of the state or territory making the demand thereof.

Citizens Not Surrendered, When.

SEC. 32. No citizen or resident of this state shall be surrendered under pretense of being a fugitive from justice from any other state or territory, where it shall be clearly made to appear to the court or judge holding such examination that such citizen or inhabitant was in this state at the time of the alleged commission of the offense, and not in the state or territory from which he is pretended to have fled; and in such case, the court or judge holding such examination shall discharge the person arrested, and forthwith report the facts to the governor.

Warrants by Judge or Justice of Peace.

SEC. 33. Whenever any person shall be found within this state charged with any offense committed in any other state or territory, and liable by the constitution and laws of the United States to be delivered over upon the demand of the governor of such other state or territory, any court, judge or justice of the peace authorized to issue warrants in criminal cases, may, upon complaint in writing on oath setting forth that a crime has been committed in such other state or territory, that the accused has been charged in such state or territory with the commission of such crime, and that the accused has fled from such state or territory and is found within the [this] state, issue a warrant, directed to the sheriff or any constable of the county in which such complaint may be filed, commanding him to apprehend such fugitive, wherever he may be found in the state, and bring him before the same, or any other court, judge or justice of the peace, who may be nearest or most convenient of access to the place at which the arrest may be made, to answer such complaint; to which warrant shall be attached a certified copy of the complaint upon which the same is issued, and upon which the examination and trial shall be had.

Hearing—Recognizance—Forfeiture.

SEC. 34. If, upon the examination of the person charged, it shall appear to the court, judge or justice of the peace, that there is reasonable cause to believe that the complaint is true, and that such person may be lawfully demanded of the governor by the governor of the state or territory where such offense is alleged to have been committed, he shall, unless such person is charged with murder or treason, and the proof is evident or the presumption

strong, recognize the accused in a bond in a reasonable sum with sufficient sureties, conditioned that the accused shall appear before such court, judge or justice at a future day, to be named therein, allowing a reasonable time to obtain the warrant of the governor, as hereinafter provided, and to abide the order of such court, judge or justice of the peace in the premises. If the person so recognized shall fail to appear according to the conditions of his recognizance, he shall be defaulted and the same proceedings shall be had as in the case of other recognizances entered into before such court, judge or justice of the peace in criminal cases.

Detention in Jail.

SEC. 35. If such person shall not enter into such recognizance, or if he shall be charged with murder or treason, and the proof is evident or the presumption strong, he shall be committed to the jail of the county in which the hearing before the court, judge or justice of the peace is had, and there detained until a future day, named in the order of commitment, allowing a reasonable length of time to obtain the warrant of the governor as herein provided.

Notice to Governor.

SEC. 36. The court, judge or justice of the peace before whom the hearing is had, shall forthwith inform the governor of the fact that such person is in custody or out on bail, and it shall be the duty of the governor forthwith to notify the governor of the state or territory where such offense is alleged to have been committed, that the fugitive is in custody or out on bail within this state.

Warrant by Governor.

SEC. 37. Upon the demand of the governor of the state or territory where such offense is alleged to have been committed, for the surrender of such fugitive from justice, pursuant to the constitution and laws of the United States, it shall be the duty of the governor to issue his warrant, as provided in section twenty-six of this act, and like proceedings shall be had as if such fugitive had been originally demanded by the governor of the state or territory where such offense is alleged to have been committed, as provided for in this act.

Discharge in Absence of Agent.

SEC. 38. If the person so recognized shall appear before the court, judge or justice of the peace upon the day fixed in such bond, he shall be discharged unless he shall be demanded by some person authorized by the warrant of the governor to receive him: *Provided*, That whether the person so charged shall be recognized, or committed or discharged, any person authorized by the warrant

of the governor may at all times take him into custody, and take him before the proper court or officer for examination, as provided in section twenty-six, and such arrest shall be a discharge of the recognizance if there was one given.

Costs—Affiant's Liability—Release.

SEC. 39. In case no agent of the state appear and demand such person within the period prescribed by this act, the person filing the affidavit upon which such person was apprehended shall be answerable for all the actual costs and charges, including the support in jail while confined, which support shall not exceed forty cents per day. In case such agent appears, and such fugitive is turned over to him, he shall be responsible for all the costs incurred in apprehending, receiving and keeping the fugitive, and upon failure or refusal to pay the same, such fugitive shall be discharged. In case the governor of the state from which such person is a fugitive shall inform the governor of the state that he does not desire the arrest or further apprehension of such person, the governor of this state shall at once so notify the court, judge or justice before whom such person is held for examination, who shall thereupon discharge such person from custody.

Practice on Examination.

SEC. 40. Such examination of such fugitive or fugitives as herein provided, before the court, judge or justice of the peace, shall in all respects not herein otherwise provided, be governed by the law regulating criminal cases.

Damages—Affiant's Liability.

SEC. 41. In case such person is wrongfully held or detained under the provisions of this act, the person filing the affidavit shall be responsible in damages for any injury sustained, to be recovered as in other civil cases.

Expenses of Agent, How Paid.

SEC. 42. When any person charged with a felony has fled to any other state, territory or country, and the governor has issued a requisition for such person, or has requested the president of the United States to issue extradition papers, the county commissioners may pay to the agent designated in such requisition or request to execute the same, all necessary expenses of pursuing and returning such person so charged, or so much thereof as to them seems just, out of any fund in the county treasury which shall have been appropriated by the county council for that purpose.

SURETY OF THE PEACE.

Affidavit.

SEC. 43. When complaint is made in writing, upon oath, before any justice of the peace, that the complainant has just cause to fear, and does fear, that another will destroy or injure his property, or injure, by violence, himself or some member of his family or his ward, and that he makes such affidavit only to secure the protection of the law and not from anger or malice, any justice with whom such affidavit is filed shall issue his warrant, and cause the person complained of to be arrested and brought before him for trial.

Affidavit Form.

SEC. 44. An affidavit for surety of the peace, substantially in the following form, shall be deemed sufficient:

State of Indiana, county of ....., ss:

A. B. swears (or affirms, as the case may be) that he has just cause to fear, and does fear, that C. D. (here describe the injury apprehended); and that he makes this affidavit only to secure the protection of the law, and not from anger or malice.

A. B.

Subscribed and sworn to, before me this .. day of ....., 19..

....., Justice of the peace.

Warrant Form.

SEC. 45. A warrant substantially in the form following shall be deemed sufficient:

State of Indiana, county of ....., ss:

To any constable of ..... county:

Whereas, A. B. has filed with me his affidavit, that he has just cause to fear, and does fear, that C. D. (here insert the injury apprehended, as specified in the affidavit); and that he makes said affidavit only to secure the protection of the law, and not from malice or anger: You are therefore commanded, forthwith, to arrest said C. D., and bring him before me, at my office, to be dealt with according to law; and have then there this writ.

Dated this .. day of ....., 19..

....., Justice of the peace.

Issue and Trial.

SEC. 46. The issue to be tried in such case shall be, whether the complaining witness has just cause to entertain the fears expressed in his affidavit; which issue shall be tried and determined by the justice or jury. Changes of venue and continuances shall be granted as in other cases.

Recognizance by Defendant.

SEC. 47. If the justice or jury trying the issue shall find that the complaining witness had, at the time the affidavit was filed, just grounds to entertain the fear expressed in his affidavit, the justice shall require of the defendant recognizance and freehold surety in a sum not less than fifty nor more than one thousand dollars, for his appearance before the circuit or criminal court on a day to be fixed by such justice, and to keep the peace meanwhile toward the person named in the affidavit and all the inhabitants of the state. Such recognizance shall be substantially in the following form:

We, A. B. and C. D., severally acknowledge ourselves bound to the State of Indiana in the penal sum of ..... dollars each, if said A. B. shall not appear on .... day of ....., 19.., before the ..... court of ..... county, to answer a complaint of surety of the peace made against him by ....., and abide the order of such court therein, and in the meantime to keep the peace toward all the inhabitants of this state.

A. B. (Seal).
C. D. (Seal).

Approved by me:

....., Justice of the peace.

Filing Recognizance and Transcript.

SEC. 48. Such recognizance shall be filed and recorded in the same manner, and shall have the same force and effect as recognizances required to be taken in criminal cases before justices. And such justice shall also file in the clerk's office a transcript of the proceedings before him, and all the papers in the cause, unless otherwise directed by both parties; and he shall also recognize the complainant and the witnesses examined by him, to appear before such court to testify in said matter.

Trial in Court—Recognizance.

SEC. 49. The cause shall be docketed and tried in such court in its order; and if the finding of the court be against the defendant on the issue as to whether the complaining witness had just cause to entertain the fears expressed in his affidavit when the same was filed before the justice, the court shall require of such defendant recognizance, with freehold surety, that he will keep the peace and be of good behavior generally, and especially toward the person named in the affidavit, for such length of time as the court may direct; and shall also give judgment against him for costs, and that he stand committed until the same be paid or replevied.

Finding—Costs.

SEC. 50. If the finding of the justice or of the court be in favor of the defendant, or if the cause be dismissed by the complainant, or if he fail to prosecute the same, all costs shall be adjudged against the complaining witness.

Prosecution by Wife.

SEC. 51. A wife may bring a proceeding for surety of the peace against her husband, or any other person in her behalf may bring such proceeding against him, and such person shall, on such proceeding, be deemed the complaining witness; but the wife shall in no case be responsible for costs.

Prosecuting Attorney—Notice.

SEC. 52. In all cases of surety of the peace, the justice of the peace before whom the proceeding is instituted shall notify the prosecuting attorney or his deputy, if within the township at the time, to appear and prosecute for the complainant.

Title of Cause.

SEC. 53. The proceeding shall be in the name of the State of Indiana against the defendant.

Commitment to Jail.

SEC. 54. When any defendant shall fail to enter into any recognizance required of him by any justice or court, as provided in this act, such court or justice shall commit such defendant to the county jail until he shall be discharged by due course of law; but in no case shall he be thus confined longer than three months. And after such commitment by the court, the court may, at any time, discharge him on his own recognizance, when it shall seem proper to do so in the interest of justice and with due regard to the safety of the parties named in the affidavit and the public.

Breach of Peace.

SEC. 55. Whoever, in the presence of a justice of the peace, while acting as such justice, makes an affray, or threatens to beat or kill another, or to commit an offense against the person or property of another, or contends with hot and angry words and imprecations, to the disturbance of the peace, may be ordered, without process or any other proof, to give surety to keep the peace, and in default thereof may be committed as above provided.

SEARCH WARRANTS.

Issue by Justices of Peace—Articles.

SEC. 56. Justices of the peace may issue warrants to search any house or place:

First. For property stolen, taken by robbers, embezzled or obtained under any false pretense.

Second. For gill nets, seines, or for any implement or device used or kept for use for taking fish unlawfully from any of the lakes or streams of this state.

Third. For forged or counterfeit coins, bank bills or other instruments of writing, and dies, plates, stamps or brands for making the same.

Fourth. For any gaming table, establishment, device or apparatus kept for the purpose of unlawful gaming, or to win or gain money or other property, or for any money or other property won by unlawful gaming.

Fifth. For books, pamphlets or printed papers containing obscene language; prints, pictures or descriptions manifestly tending to corrupt the morals of youth; and for obscene, lewd or indecent or lascivious drawings, lithographs, engravings, pictures, daguerreotypes, photographs, stereoscopic pictures, models or casts, whenever such articles are kept for distribution, exhibition, sale or use, for hire or gain; and for instruments or articles of indecent or immoral use; or instruments, articles or medicines for procuring abortion, or for the prevention of conception, or for self-pollution; or for any articles used for an obscene or unlawful purpose.

Sixth. For animals that have been overworked, cruelly beaten, mutilated, overdriven, deprived of necessary sustenance, cruelly killed, or in any manner cruelly mistreated or neglected; and for animals kept for the purpose of fighting, baiting, to be used as a target, or to be shot at either for amusement or as a test of skill in marksmanship; and for animals that are kept with their feet or legs tied or in any other cruel and inhuman manner; and for animals cruelly confined in the cars of any company using such cars for transporting animals, and for any other purpose in order to enforce the laws herein or hereafter enacted to prevent cruelty to animals.

Affidavit Form.

SEC. 57. No warrant for search shall be issued until there is filed with the justice an affidavit, particularly describing the house or place to be searched and the things to be searched for, and alleging substantially the offense in relation thereto; and that the

affiant believes, and has good cause to believe, that such things as are to be searched for are there concealed. An affidavit for search, substantially in the following form, shall be deemed sufficient:

State of Indiana, county of ....., ss:

A. B. swears (or affirms, as the case may be) that he believes and has good cause to believe, that (here describe the things to be searched for and the offense in relation thereto) are concealed in or about the (here describe the house or place) of C. D., situated in the county of ....., in said state.

Subscribed and sworn to before me this .... day of ....., 19..

....., Justice of the peace.

Search Warrant Form.

SEC. 58. A warrant for search, substantially in the following form, shall be deemed sufficient:

State of Indiana, county of ....., ss:

To any constable of said county, greeting:

Whereas, there has been filed with me an affidavit of which the following is a copy: (here copy the affidavit). You are, therefore, commanded, in the name of the State of Indiana, with the necessary and proper assistance, in the day time or in the night time, to enter into (here describe the house or place as in the affidavit) and there diligently search for the said goods and chattels, to wit: (here describe the articles as in the affidavit); and that you bring the same, or any part thereof found on such search, forthwith before me at my office, to be disposed of according to law.

Given under my hand this .... day of ....., 19..

....., Justice of the peace.

Seizure and Disposal.

SEC. 59. When the warrant is executed by the seizure of the property or things described therein, the property or things shall be safely delivered by the justice to the sheriff, to be safely kept by him, either within the county jail of his county or such other secure place as to him shall seem meet. And where the property found consists of obscene, lewd, indecent or lascivious books, papers, articles and things, such justice shall transmit, enclosed and under seal, specimens thereof to the prosecuting attorney, and the remainder thereof shall be deposited as aforesaid, enclosed and under seal.

Duty of Sheriff.

SEC. 60. Such property, so seized, shall be securely held by such sheriff, subject to the order of the court trying the offender;

and, on the conviction of the person so offending, such sheriff shall forthwith, in the presence of the person or persons upon whose complaint the seizure or arrest was made, if he or they shall after notice thereof elect to be present, destroy, or cause to be destroyed, the counterfeit coins, dies and instruments, gaming devices and apparatus, burglars' tools and other articles used for unlawful purposes, and the obscene, lewd and indecent articles and things above mentioned; and as to all other property, he shall, after such conviction, deliver the same, under the order of the court trying the offender, to the proper owner thereof.

Dead Human Body.

SEC. 61. When an affidavit is filed before a justice of the peace or city judge, alleging that the affiant has good reasons to believe, and does believe, that a dead human body, procured or obtained contrary to law, is secreted in a building, or other place in the county, which is therein particularly specified, such justice of the peace, or city judge, taking with him a constable or police officer, may enter, inspect and search such building or other place for such dead body; and in making such search they shall have the powers of officers executing search warrants.

EXAMINATION OR TRIAL BY JUSTICE OF THE PEACE.

Warrant—Issue and Service.

SEC. 62. Any justice of the peace or city judge, on complaint, made on oath before him, charging any person with the commission of any felony or misdemeanor, shall issue his warrant for the arrest of such person, and cause him to be brought, forthwith, before him for examination or trial; and such warrant may be served throughout the county. And if the accused flee from justice, or has already escaped from the county in which the offense was committed, the officer holding the warrant, upon having the certificate of the county clerk attached thereto, setting forth that the justice of the peace or city judge signing the warrant was at the time duly commissioned and qualified as such, may pursue and arrest him in any county in this state; or the same may be served by any constable or sheriff in any county where he may be found, and such constable shall have the power and right to take recognizance for the appearance of the accused in such amount as the justice may enclose upon the warrant, which recognizance must require the accused to appear before such justice at a time therein fixed within forty-eight hours from the time of making such arrest, and the bond shall be approved by the constable.

Affidavit Form.

SEC. 63. An affidavit, substantially in the following form, shall be deemed sufficient:

State of Indiana, county of ....., ss:

A. B. swears (or affirms, as the case may be) that on or about the .... day of ....., 19.., at said county, C. D., as affiant verily believes (here state the offense).

A. B.

Subscribed and sworn to before me, on this .... day of ....., 19..

....., Justice of the peace.

Warrant Form.

SEC. 64. A warrant, substantially in the form following, shall be deemed sufficient:

State of Indiana, county of ....., ss:

To any constable of ..... county:

You are commanded to arrest C. D., and bring him, forthwith, before me, at my office, to answer to the charge of having, at said county, on the .... day of ....., 19.. (here state the offense), as A. B. has complained on oath; and have then and there this writ.

Dated this .... day of ....., 19..

....., Justice of the peace.

Arrest—Proceedings.

SEC. 65. When the officer holding the warrant arrests the accused, he shall take him before the magistrate issuing the warrant, and it shall be the duty of such magistrate to docket the cause as in civil cases, and to hear the cause, and either acquit, convict and punish, or hold to bail, the offender, or if the offense be not bailable, commit him to jail, as the facts and the law may justify.

Coroner's Inquiry—Writ—Arrest.

SEC. 66. Upon an inquisition found before any coroner of the death of any person by felony, such coroner shall forthwith issue to some constable his writ, commanding him to arrest the person whom such coroner may charge with such felony, and take him before some justice, to be by such coroner named in such writ; and such justice shall proceed in the case as if the person had been arrested on complaint made before him.

Counsel for Defense—Prosecutor.

SEC. 67. It shall be the duty of such justice to give the defendant an opportunity to employ counsel if he so desire; and

the justice shall also notify the prosecuting attorney or his deputy of the proceeding, if either of them is present within the township.

Continuance—Recognizance—Witnesses.

SEC. 68. When a continuance is had, the accused may, if the offense be a bailable one, enter into a recognizance before the justice, with good and sufficient surety, to be approved by him, in such amount as he may deem reasonable, conditioned for the appearance of the accused before such justice, at a place, day and hour in the recognizance specified; and he shall also recognize the witnesses in the same manner as prisoners are held to bail or witnesses recognized for their appearance at the circuit or other courts.

Forfeiture Proceedings.

SEC. 69. On the forfeiture of any recognizance taken by virtue of the last preceding section, the justice shall indorse thereon his certificate, stating in substance that such prisoner did not appear in discharge of such recognizance and abide the judgment of the court; and shall forthwith file such recognizance, so indorsed, with the clerk of the circuit or other proper court. And such clerk shall forthwith record, in the order book of such court, such recognizance and certificate of forfeiture, and note the same on the judgment docket; and such record shall have the same force and effect as other recognizances; and such certificate, or the record thereof, shall be presumptive evidence of the forfeiture of such recognizance.

Change of Venue.

SEC. 70. Changes of venue shall be granted on the application of the prisoner, as in civil cases, but the cost thereof shall abide the event of the prosecution; and in such case, the justice granting the change shall fix the time of trial before the justice to whom he may send the cause; or the justice may in like manner send the cause to the city judge of any city, and the prisoner and witnesses shall be recognized to appear before the justice, or city judge, to whom the case is sent, in the same manner as provided in cases of continuances; and such recognizance, if forfeited, shall be certified by the justice or city judge taking such forfeiture in the same manner as in cases of continuance and with like effect.

Special Constables.

SEC. 71. Special constables may be appointed under like circumstances, having like powers and being subject to like liabilities, as in civil cases.

Felony—How Recognized.

SEC. 72. When the offense charged is a felony, or a misdemeanor, in which the lowest fine provided by law is larger than the justice shall have jurisdiction to assess, and the justice, upon the hearing, is of the opinion that the accused should be held to answer such charge, he shall be recognized to appear at the next term of the criminal court of such county, or if there be no criminal court, then to the circuit court of such county.

Misdemeanor—Court or Jury.

SEC. 73. If the offense charged be a misdemeanor, and one that the justice of the peace has jurisdiction to furnish [punish] the defendant or the state may demand a jury, which may be impaneled and sworn as in other criminal cases; or he may be tried by the justice.

Punishment—Inadequate Jurisdiction.

SEC. 74. Such justice or jury, if they find the defendant guilty of a misdemeanor, shall assess his punishment; or if, in their opinion, the punishment they are authorized to assess is not adequate to the offense, they may so find, and in such case the justice shall hold such defendant to bail for his appearance before the proper court, or commit him to jail in default of such bail.

Jurisdiction.

SEC. 75. The jurisdiction of justices of the peace in criminal cases shall be co-extensive with their respective counties, and they shall have exclusive original jurisdiction in all cases where the fine assessed can not exceed three dollars, and concurrent jurisdiction with the criminal court and circuit court to try and determine all cases of misdemeanor punishable by fine only; and in trials before justices, fines to the extent of twenty-five dollars, with costs, may be assessed; and they shall have jurisdiction to make examination in all cases; but they shall have no power to adjudge imprisonment as a part of their sentence, except in the manner specially provided in this act.

Assault and Battery—Affray.

SEC. 76. Whenever an affidavit for assault, or assault and battery, is filed with a justice, he shall cause the injured party to be subpoenaed as a witness; and such justice shall not hear or determine such complaint unless the injured party be present as a witness at the trial, or, having been subpoenaed, refuses to attend, and can not be compelled to attend by attachment for any other cause than sickness or inability to attend by reason of the injuries he may have received from the defendant; or unless a subpoena,

issued for the injured party, shall have been returned "not found" by the proper officer, after a diligent search for such witness in the proper county. And no trial shall be had upon a complaint for an affray, unless some person who saw the same shall be present as a witness, or, having been subpoenaed, refuses to attend. All judgments of such justice in violation of the provisions of this section shall be void.

Wrong Offense Charged—New Affidavit.

SEC. 77. Whenever, upon the trial of any person for a misdemeanor before a justice of the peace, or during a preliminary examination before such justice of any person upon a charge of felony or any other public offense, it appears to such justice that a mistake has been made in charging the proper offense, or that he is guilty of an offense not charged, the justice shall not discharge the defendant, if there appear to him to be good cause to detain him in custody; but he must cause an affidavit, charging the proper offense to be made against the defendant, and recognize him to answer the same, and, if necessary, also recognize the witnesses to appear and testify. Where the proper charge is a felony, he shall also notify the prosecuting attorney or his deputy, if present in the county, to conduct such trial or examination.

State Statutes—Ordinances.

SEC. 78. Whenever any act is made a public offense against the state by any statute and the punishment prescribed therefor, such act shall not be made punishable by any ordinance of any incorporated city or town; and any ordinance to such effect shall be null and void, and all prosecutions for any such public offense as may be within the jurisdiction of the authorities of such incorporated cities or towns, by and before such authorities, shall be had under the state law only: *Provided*, That every city and town shall have exclusive power to pass and enforce ordinances to keep the streets and other public places of any such city or town free from all obstructions, and to prevent the riding or driving of any vehicle or animal on any sidewalk therein except in the necessary act of crossing.

Offenses in View.

SEC. 79. Where any offense is committed in view of any justice, he may, by verbal direction to any constable, or, if no constable be present, to any citizen, cause such constable or citizen to arrest such offender and keep him in custody for the space of one hour, unless such offender shall sooner be taken from such custody by virtue of a warrant issued on complaint on oath. But such person so arrested shall not be confined in jail nor put upon trial until arrested by virtue of such warrant.

Witnesses—Recognizance.

SEC. 80. Whenever any justice shall hold any prisoner to bail, or commit him to jail in default of bail, he shall also recognize, with or without surety, in his discretion, such witnesses as he may deem important, to appear and testify before the court where such cause is next to be heard.

Appeal—Recognizance.

SEC. 81. Any prisoner against whom any punishment is adjudged by a justice of the peace may appeal to the criminal court, and, if there be none, then to the present or circuit court of the county, within ten days after such judgment. In case such prisoner enters into recognizance for his appearance at the next term of such court, such appeal shall stay all further proceedings.

Recognizance Form.

SEC. 82. Recognizances for the appearance of prisoners shall, in all cases, be taken with freehold surety, or be secured by a surety company, and shall be substantially in the following form:

We, A. B. and C. D., jointly and severally acknowledge ourselves bound to the State of Indiana in the sum of ..... dollars, if the said A. B. shall not appear on the ....day of....., 19.., in ..... court, to answer a charge of (here state the offense) at the county of ..... and State of Indiana, and abide the judgment of said court.

Witness our hands and seals this .... day of ....., 19..

A. B. (Seal)

C. D. (Seal)

Taken and approved this .... day of ....., 19..

....., Justice of the peace.

Or when the defendant so desires, or the justice in his discretion directs, the recognizance may be in the following form:

We, A. B. and C. D., jointly and severally acknowledge ourselves bound to the State of Indiana in the sum of ..... dollars. If the said A. B. shall appear on the .... day of ....., 19.., in the ..... court (here specify the court), and from day to day and from term to term thereof, and abide the order of the court until said cause is determined and not depart without leave, then this recognizance shall be void, else to remain in full force.

Witness our hands and seals this .... day of ....., 19..

A. B. (Seal)

C. D. (Seal)

Taken and approved this .... day of ....., 19..

....., Justice of the peace.

Transmitting Papers—Docketing—Lien.

SEC. 83. Such recognizance, together with a transcript of the proceedings and all papers in the case, shall be forthwith filed by the justice with the clerk of the proper court, who shall docket such cause for trial and record such recognizance forthwith, and enter the same on the judgment docket; and from the date of such entry it shall operate as a lien upon all lands in the county of the parties thereto, and any judgment afterward had upon it shall relate back to the date of such entry.

Judgment—Replevy.

SEC. 84. Whenever judgment shall be rendered for a fine it shall be a part of such judgment that the defendant stand committed until such fine be paid or replevied. And the defendant may replevy such judgment for ninety days in the same manner as in civil cases; and such replevy shall have the force and effect of a like undertaking in civil cases.

Collection of Judgment.

SEC. 85. Whenever a person is adjudged guilty of a misdemeanor or felony, and his punishment is by fine, or by fine and imprisonment, the judgment shall be that he stand committed until such fine is paid or replevied; and it shall be unlawful for the sheriff or constable to release such person until such judgment is either paid in money or replevied by good freehold sureties, at least one of whom shall reside in the county where the judgment is rendered. In case such judgment is replevied, it shall be the duty of the clerk or justice of the peace, upon the expiration of the time for the stay of the judgment, to issue to the sheriff or constable a copy of such judgment, with his mandate attached, under the hand or hand and seal of the court; and it shall be the duty of the sheriff or constable to arrest the defendant and commit him to jail unless or until such fine and costs are paid: *Provided,* Any defendant imprisoned under the provisions of this act may be released therefrom as now provided by law.

Commitment to Jail.

SEC. 86. If such defendant do not immediately pay or replevy such judgment and costs the justice shall commit him to jail, there to remain one day for each dollar of such fine and costs so adjudged against him.

THE GRAND JURY.

Jurors—Number.

SEC. 87. The grand jury shall be composed of six persons having the qualifications required by law.

Summons to Jurors.

SEC. 88. Hereafter no grand jury shall be summoned to appear at any term of a circuit court unless as provided in this act.

Order for Venire.

SEC. 89. Whenever the judge of a circuit or criminal court shall deem it necessary that a grand jury shall sit in any county of his circuit, it shall be his duty to make an order requiring the clerk to issue a venire for such jury to appear on such day as may be named in the order, and such venire shall be for the jury drawn and selected for the term as is now provided by law: *Provided,* That the court may in its discretion discharge such grand jury and order a new one drawn in the manner provided by law: *And provided, further,* That the grand jury shall be convened at least once in every year in every county.

Discharge of Grand Jury.

SEC. 90. Whenever in the opinion of the court, the grand jury has been in session long enough, and the public interests require that it should adjourn, it shall be the duty of such court to make an order declaring such grand jury adjourned.

Excuses—Fine.

SEC. 91. A grand juror may be excused from attending on account of his own sickness or physical infirmity; or the sickness or death of any member of his family; or because he is a ferryman, or a member of a fire company in a city or town, in active service; or a minister of the gospel; or because he is over sixty years of age, and desires to be excused for such reason. If a person summoned as a grand juror fail to appear and show to the satisfaction of the court good cause for non-attendance, he shall be punished by a fine of ten dollars, imposed by the court as for a contempt, by an order to be entered on the order book of the court. The order shall be deemed a judgment, in all respects, in favor of the grand jury [county].

Re-Summons—Talesmen.

SEC. 92. Whenever the grand jury is dismissed before the final adjournment, they may be summoned to attend again at the same term if necessary. If a full jury do not attend, the number may be completed from the bystanders; but before any salesman [talesman] is accepted and sworn the court must inquire of him, under oath, as to his qualifications.

Oath of Jurors.

SEC. 93. The following oath must be administered to the grand jury:

"You, and each of you, do solemnly swear or affirm that you will diligently inquire, and true presentment make, of all felonies and misdemeanors, committed or triable within this county, of which you shall have or can obtain legal evidence; that you will present no person through malice, hatred or ill-will, nor leave any unpresented through fear, favor or affection, or for any reward, or the promise or hope thereof, but in all your indictments you will present the truth, the whole truth and nothing but the truth; that you will not disclose any evidence given or proceeding had before the grand jury. Those of you who swear, so help you God, and those of you who affirm do solemnly affirm under the pains and penalties of perjury."

Oath of New Juryman.

SEC. 94. If after the grand jury are sworn, any person be afterward appointed as a grand juror, the oath, as prescribed in the preceding section, must be administered to him.

Charge by Court—Foreman.

SEC. 95. The grand jury, being impaneled and sworn, must be charged by the court. In such charge, the court must plainly instruct them as to their duties, and give them such information as it may deem proper in relation to any charges and crimes returned into court, or likely to come before the grand jury. Thereupon the court shall appoint one of such grand jurors as foreman.

Clerk—Stenographer.

SEC. 96. The grand jury must select one of its number as clerk, who must take minutes of the proceedings, except the votes of the individual members on the finding of an indictment, and also of the evidence given before the grand jury, which shall be preserved for the use of the prosecuting attorney: *Provided, however*, That such grand jury may by unanimous vote and the consent of the court employ a stenographer at not to exceed five dollars per day, to take the minutes and evidence under the supervision of such grand jury and the clerk selected by it. Such stenographer before entering upon his or her duties shall subscribe to an oath, to be administered by the clerk of such court, that he or she will in no way reveal any of the proceedings had before such grand jury.

Challenge—Causes For.

SEC. 97. A person held to answer a charge for a felony or misdemeanor may challenge an individual grand juror, before the jury is sworn, for one or more of the following causes only:

First. That such individual grand juror is a minor.

Second. That he is not a freeholder or a householder of the county.

Third. That he is an alien.

Fourth. That he is insane.

Fifth. That he is the prosecuting witness upon a charge against the defendant.

Sixth. That he is a witness on the part of the prosecution.

Seventh. That such a state of mind exists on his part in reference to the party charged that he can not act impartially and without prejudice to the substantial rights of the challenger.

Eighth. That he holds his place in the grand jury by reason of the corruption of the officer who selected and impaneled the grand jury.

Ninth. That he is in the habit of becoming intoxicated.

Tenth. That he has requested, or caused any officer or his deputy to be requested, to place him upon the grand jury.

Trial of Challenge.

SEC. 98. Such challenge may be oral. If the facts alleged be denied, the challenge must be tried at once by the court, and the juror challenged may be examined as a witness to prove or disprove the challenge, and he is bound to answer every question pertinent to the inquiry therein. The challenger, and other witnesses then present, may also be examined on either side; and the rules of evidence applicable to the trial of other issues shall govern the admission or exclusion of testimony on the trial of the challenge; but the matter must be summarily heard, and the court must allow or disallow the challenge.

If Challenge Sustained—New Juror.

SEC. 99. If a challenge be allowed to a grand juror, for any of said causes, he must be forthwith discharged from the grand jury, and his place shall be filled from among the bystanders.

Foreman Administers Oaths.

SEC. 100. The foreman of the grand jury is authorized to administer all oaths to witnesses.

Disclosures by Juryman.

SEC. 101. If a member of the grand jury know, or have reason to believe, that a public offense has been committed which is triable in the county, he must declare the same to his fellow jurors, who must thereupon investigate the same.

Secret Proceedings.

SEC. 102. Every member of the grand jury must keep secret whatever he or any other grand juror may have said, or in what manner he or any other grand juror may have voted on a matter before the grand jury.

Juror as Court Witness.

SEC. 103. A member of the grand jury may, however, be required by any court to disclose the testimony of a witness examined before the grand jury, for the purpose of ascertaining whether it is consistent with that given by the witness before the court; or to disclose the testimony given before them by any person upon a charge against him for perjury, in giving his testimony or upon his trial therefor.

Prohibited Questions.

SEC. 104. A grand juror can not be questioned for anything he may say or any vote he may give in the grand jury relative to a matter legally pending before the grand jury, except for a perjury of which he may have been guilty in making an accusation or giving testimony to his fellow jurors.

Witnesses—Refusal to Answer.

SEC. 105. Subpoenas for witnesses before the grand jury shall be issued on the order of the grand jury, if in session, and, if not in session, on the order of the prosecuting attorney; and such witnesses may be compelled to appear and testify before the grand jury. If a witness before the grand jury refuse to answer an interrogatory, the fact shall be communicated to the court in writing, in which writing the question to be answered shall be stated, together with the excuse for the refusal, if any be given by the person interrogated; and the court shall thereupon determine whether the witness is bound to answer, and the grand jury shall be immediately informed of the decision. Each witness shall also be sworn not to divulge except when legally called upon to do so, any portion of his testimony before the grand jury, for a violation of which portion of such oath such witness shall be liable to punishment as for a contempt.

Obstinate Witness.

SEC. 106. If the court determine that the witness is bound to answer, and he persist in his refusal, he shall be brought before the court, which shall proceed in the same manner as if the witness had been interrogated and refused to answer in open court.

Order of Business.

SEC. 107. The order of inquiry made by the grand jury shall be as follows:

First. Into the case of every person imprisoned in the county jail on a criminal charge, and not indicted.

Second. Into the case of every person under bail in said county to answer a criminal charge, and not indicted.

Third. Into wilful and corrupt misconduct in office of public officers of every description, and into any charge of extortion preferred against any such officer.

Fourth. Into the condition and management of the public prisons and poor houses in the county.

Fifth. Into violations of the criminal laws of this state generally, of which the court has jurisdiction.

Prisons—Poor House.

SEC. 108. The grand jury, during term time of the court, shall be entitled to free access, at all reasonable times, to the county prison or prisons and the county poor house, for the purpose of examining their condition and management.

Prosecutor's Presence.

SEC. 109. The prosecuting attorney or his deputy shall be allowed at all times to appear before the grand jury, for the purpose of giving information relative to any matter cognizable by it, or advice upon any legal matter when required; and he may interrogate witnesses before the grand jury, when the jury or he deem it necessary, but no prosecuting attorney, officer or person shall be present with the grand jury during the expression of their opinions or in giving their votes upon any matter before them.

INDICTMENT AND AFFIDAVIT.

Indictment—How Found.

SEC. 110. At least five of the grand jurors must concur in the finding of an indictment; and when so found it must be signed by the prosecuting attorney; and it must also be endorsed by the foreman of the grand jury, "A true bill," and he must subscribe his name thereon as foreman.

Neglect to Sign—Court Order.

SEC. 111. As soon as the grand jury has returned an indictment into court, the judge must examine it; and if the foreman has neglected to indorse it, "A true bill," with his name signed

thereto, or if the prosecuting attorney has neglected to sign his name, the court must cause the foreman to indorse it, or the prosecuting attorney to sign it, as the case may require, in the presence of the jury.

Names of Witnesses.

SEC. 112. When an indictment is presented by the grand jury, the names of all the material witnesses must be indorsed upon the indictment; but other witnesses may afterwards be subpœnaed by the state; but unless the names of such witnesses be indorsed on the indictment at the time it is presented, no continuance shall be granted to the state on account of the absence of any witness whose name is not thus indorsed.

Record of Indictment.

SEC. 113. As soon as an indictment is presented and examined by the court, the clerk shall file the same and indorse thereon the date of such filing; and he shall then record such indictment, with its indorsements, in a record book to be kept for that purpose, and the clerk, before the last day of the term at which the same is presented, must compare the record with the original indictment and certify to the correctness thereof.

Motion for Dismissal.

SEC. 114. No criminal cause shall be dismissed except by order of the court on motion of the prosecuting attorney; and such motion must be in writing, and the reasons therefor must be stated in such motion and read in open court before such order is made; and the mere number of prosecutions against the same person shall not be a reason for dismissing any of such causes.

Lost Indictment—Trial on Copy.

SEC. 115. Whenever an indictment is lost, mislaid, stolen or destroyed, and the same shall have been recorded and certified, such record, or a copy thereof, certified to be a true copy by the clerk of the court to which such indictment was presented, shall be sufficient evidence of the finding of such indictment and the contents thereof; and the defendant may be tried upon such copy, and the trial thereon shall proceed and be determined in the same manner, and have the same binding force and effect, as if the original indictment were present, without any delay from that cause.

Inspection of Indictment.

SEC. 116. Indictments against persons not in custody or who have not given bail, and the records of such indictments shall be in the custody of the clerk, and can not be inspected by any person, except the court, the clerk and his deputy, and the prosecuting attorney, until after the arrest of the defendant.

Disclosure—Contempt.

SEC. 117. No grand juror, prosecuting attorney, clerk, judge or other officer shall disclose the fact that an indictment is found until the defendant has been arrested, except any disclosure that may be necessarily incident to the issue and service of a warrant to arrest the defendant. A violation of this and the next preceding section is punishable as a contempt.

Prosecution by Affidavit.

SEC. 118. All public offenses, except treason and murder, may be prosecuted in the circuit or criminal court, by affidavit filed in term time, in all cases except when the grand jury is in session or a prosecution by indictment or affidavit for the same offense is pending at the time of the filing of such affidavit.

Prosecutor's Approval—Witnesses—Continuance.

SEC. 119. When any such affidavit has been made, as provided in the last section, the prosecuting attorney shall approve the same by indorsement, using the words "approved by me" and sign the same as such prosecuting attorney and indorse thereon the names of all the material witnesses; after which such affidavit shall be filed with the clerk, who shall indorse thereon the date of such filing, and record the same as in the case of an indictment, as provided in section one hundred and thirteen of this act. Other witnesses may afterwards be subpœnæd by the state; but unless the names of such witnesses be indorsed on the affidavit at the time it is filed, no continuance shall be granted to the state on account of the absence of any witness whose name is not thus indorsed. And the record of such affidavit and indorsements thereon, or a copy thereof certified to be a true copy by the clerk of the court, shall be sufficient evidence of the making and filing of such affidavit and the contents thereof; and the defendant may be tried upon such copy, all as provided in section one hundred and fifteen of this act in case of trial on copy of indictment.

ARREST AND RECOGNIZANCE.

Arrest Defined.

SEC. 120. Arrest is the taking of a person into custody, that he may be held to answer for a public offense.

Issuance of Warrant.

SEC. 121. When an indictment is found, the court may direct the clerk to issue a warrant returnable forthwith. If no order is made, the clerk shall issue a warrant upon all indictments within ten days after the close of the term. Warrants must be issued upon affidavits as soon as they are filed. When a warrant issues

to the sheriff of the county where the indictment was presented or affidavit filed, he may pursue and arrest the accused in any county and commit him to jail or hold him to bail, as provided in this act. When a warrant issues to the sheriff of another county, he shall at once arrest the accused, if he can be found, and convey him to the county from which such warrant issued, or hold him to bail as provided in this act.

Warrant to Different Counties.

SEC. 122. The warrant issues to the sheriff of the county where the indictment or affidavit is filed, unless the prosecuting attorney directs the warrant to be issued to some other county. Warrants may issue to different counties at the same time; the sheriff must execute the warrant and serve all subpœnæs immediately upon their delivery to him.

Warrant Form.

SEC. 123. The warrant of arrest is an order in writing, issued in the name of the State of Indiana, signed by the clerk and attested by the seal of the court, commanding the arrest of the defendant. If issued during term time and returnable forthwith, it may be substantially in the following form:

State of Indiana.

To the sheriff of ..... county, greeting:

You are commanded to arrest ....., if he may be found in your county, so that you have him before the judge of the ..... court instanter, then and there to answer the State of Indiana on a charge of ....., and abide the order of the court thereupon, and return this writ.

Witness the clerk and seal of said court this ... day of ..... A. D., 19....

(Seal) ....., Clerk.

And if other than a bench warrant, it may be substantially in the following form:

State of Indiana.

To the sheriff of ..... county, greeting:

You are hereby commanded to arrest ....., forthwith and hold him to bail in the sum of ..... dollars, to answer on the first day of the next term of the ..... court, to be holden at the court house in ..... on the .... Monday in ....., 19..., to an indictment (or affidavit) filed in said court, for ...., and for want of bail commit him to the jail of the county until legally discharged.

Witness the clerk and seal of said court this .... day of ..... A. D., 19...

(Seal) ....., Clerk.

Bail—Court—Sheriff.

SEC. 124. The court, on the first day of each term, must order the amount, in which persons charged by an indictment or affidavit are to be held to bail, and the clerk must enter such order on the order book, and he must indorse the amount on each warrant when issued. If no order fixing the amount of bail has been made, the sheriff may present the warrant to the judge of the circuit or criminal court, and such judge must thereupon indorse the amount of bail to be required.

Corporation Summons.

SEC. 125. When an indictment is returned, or an affidavit filed against a corporation, a writ of summons commanding the sheriff to notify the accused thereof, and returnable on the tenth day after its date, shall issue. Such summons, together with a copy of the indictment or affidavit, shall be served and returned in the manner provided for the service of summons upon such corporations in civil actions. The corporation, on or before the return day of a summons duly served, may appear by one of its officers, or by counsel, and answer to the indictment or affidavit by motion or plea, and, upon its failure to make such appearance and answer, the clerk shall enter a plea of "not guilty;" and, upon such appearance being made or plea entered, the corporation shall be deemed thenceforth continuously present in court until the case is finally disposed of.

Bailable Offenses.

SEC. 126. All offenses other than murder or treason shall be bailable by sufficient sureties. Murder or treason shall not be bailable when the proof is evident or the presumption strong.

Arrest—How Made.

SEC. 127. An arrest is made by an actual restraint of the person of the defendant, or by his submission to the custody of the officer, but the defendant shall not be subject to any more restraint than is necessary for his arrest and detention.

Officer's Authority.

SEC. 128. The officer must inform the defendant that he acts under the authority of a warrant, and must show the warrant if required.

Arrest—Means.

SEC. 129. If, after notice of the intention to arrest the defendant, he either flee or forcibly resist, the officer may use all necessary means to effect the arrest.

Escape—Re-Capture.

SEC. 130. An arrest may be made on any day, or at any time of the day or night. If a person arrested escape or be rescued, the person from whose custody he made his escape, or was rescued, may immediately pursue and retake him, at any time and within any place in the state. To retake the person escaping, or rescued, the person pursuing may, after notice of his intention, and refusal of admittance, break open an outer or inner door or window of a building or enclosure, and shall have the same power to command assistance as is given in cases of arrest.

Aid to Officer.

SEC. 131. Every person must aid an officer in the execution of a warrant, if the officer require his aid, and be himself present and acting in its execution.

Arrest—May Break Doors.

SEC. 132. To make an arrest in criminal actions the officer may break open any outer or inner door or window of a dwelling house or any other building or enclosure to execute the warrant, if, after notice of his authority and purpose, he be refused admittance.

Officer Detained—May Break Doors.

SEC. 133. An officer may break open an outer or inner door or window of any building for the purpose of liberating a person, who, having entered for the purpose of making an arrest, is detained therein, or when necessary for his own liberation.

Convict Indicted.

SEC. 134. When a convict in any one of the prisons of the state is indicted for an offense committed while confined therein, he shall remain until his trial in the custody of the warden or superintendent of such prison, subject to the order of the court of the county wherein such indictment was presented.

Convict—Sentence or Trial.

SEC. 135. A convict in any one of the prisons of the state, who escaped or forfeited his recognizance before receiving sentence for a felony of which he was convicted, or against whom an indictment or affidavit for felony is pending, may be removed to the county in which such conviction was had, or such indictment or affidavit is pending, for sentence or trial, upon the warrant of the court of such county; but no convict for life shall be so removed, unless the sentence to be imposed, or the indictment pending against him, is for treason or for murder in the first degree.

Warrant for Removal.

SEC. 136. The warrant for removal shall be in the usual form, except that it shall set forth that the accused is in the state prison, naming the particular prison. It shall be directed to the sheriff of the county in which the conviction was had, or the indictment or affidavit is pending, and when a copy thereof, with the approval of the governor indorsed thereon, is presented to the warden or superintendent of such prison, he shall deliver the convict to the sheriff, who shall convey him to such county and commit him to the jail thereof. And for removing and returning such convict such sheriff shall receive fees at the rate allowed by law for conveying convicts to the state prison.

Governor's Approval—Sheriff.

SEC. 137. The sheriff, as soon as he receives the warrant, shall cause the same to be presented to the governor, who, if satisfied that such convict ought to be removed for sentence or trial, shall indorse his approval thereon, and without such approval and indorsement the warden or superintendent shall not surrender the convict.

Kept for Trial.

SEC. 138. A convict so removed shall be securely kept in jail, subject only to be taken into court for sentence or trial; and if the case be continued, or the execution of the sentence be suspended, the court may order him to be returned to the state prison by the sheriff, who shall deliver with him a certified copy of the order of the court to the warden or superintendent, who shall deliver him to the sheriff upon another order of the court duly certified.

Acquittal or Pardon.

SEC. 139. If such convict be acquitted or pardoned, he shall be forthwith returned by the sheriff to the state prison, there to serve out the remainder of his term; but if he be sentenced to imprisonment in the state prison, he shall forthwith be returned thereto by the sheriff, and his term of imprisonment shall begin to run from the expiration of the term for which he was imprisoned at his removal; or if he be sentenced to death, such sentence shall be executed as if he were not under sentence of imprisonment in the state prison.

Escape.

SEC. 140. If any convict confined in the state prison shall escape therefrom, he may be retaken and imprisoned again, notwithstanding the time for which he was sentenced to be imprisoned may

have expired when he shall be retaken, and he shall remain so imprisoned until tried for such escape, or until he be discharged on a failure to prosecute therefor.

Mob—Protection of Prisoner.

SEC. 141. Whenever any person has been arrested and is confined in any county jail before trial, and there is, in the opinion of the sheriff of such county, danger that the accused may be injured or killed by the violence of a mob, the judge of the circuit court of such county, if present in the county, or in case of his absence the clerk of such court shall give a written order to the sheriff of the county to remove the accused to a safe place of confinement, and such sheriff shall at once cause such prisoner to be removed to the jail of the county nearest having a sufficient jail and proper provision for protecting the accused; or if he deem it necessary, to the nearest state prison or reformatory, for the temporary safe keeping and protection of such prisoner. And the sheriff of such nearest county, or the warden or superintendent of such prison, shall, on the exhibit of such written order, receive and keep in his custody the prisoner ordered to be committed as aforesaid, and the county from which such prisoner was sent shall pay all the expenses of such removal and keeping. The said sheriff, or warden or superintendent, shall, upon the order of the circuit court of the county from which the prisoner was sent, or the judge thereof, redeliver such prisoner when demanded.

Peace Officers—Power to Arrest.

SEC. 142. All judicial officers, sheriffs, deputy sheriffs, coroners, constables, marshals, deputy marshals, police officers, watchmen and the conductors of all trains or cars carrying passenger or freight within this state, while on duty on their respective trains or cars, may arrest and detain any person found violating any law of this state, until a legal warrant can be obtained.

Escape to Adjoining County.

SEC. 143. Whenever any sheriff or constable, in executing a warrant, shall find that the defendant has crossed the boundary of the county in which the warrant issued into an adjoining county, such officer shall have authority to enter the adjoining county and execute such warrant and make the arrest and return such defendant, without hindrance, into the county from which such warrant issued.

Recognizance in Criminal Proceedings.

SEC. 144. Recognizance in criminal proceedings may be taken in open court and entered on the order book.

Recognizance by Officer.

SEC. 145. Any officer authorized to execute a warrant in a criminal action, may take the recognizance and approve the bail; he may administer an oath and examine the bail as to its sufficiency.

Money as Bail.

SEC. 146. The defendant may, in the place of giving bail, deposit with the clerk of the court to which the defendant is held to answer, the sum of money mentioned in the order, and upon delivering to the sheriff the certificate of deposit, he must be discharged from custody.

Return of Money.

SEC. 147. If money has been deposited instead of bail, and the defendant, at any time before the forfeiture thereof, shall give sufficient special bail, or shall surrender himself in open court, or to the sheriff, as provided in this act, or be in any manner legally discharged, the court shall order a return of the deposit to the defendant or to the person who deposited it for him.

Recognizance by Sheriff.

SEC. 148. When any person is committed for want of bail, and the amount of bail is specified in the warrant of commitment, the sheriff may take the recognizance and approve the bail.

Recognizance Filed—Clerk's Record.

SEC. 149. Every recognizance taken by any peace officer, must be delivered by him forthwith to the clerk of the court to which the defendant is recognized. The clerk must thereupon record the recognizance, and, from the time of filing, it shall have the same effect as if taken in open court.

Surety Examinations.

SEC. 150. A court or officer, required to take or accept any bail or recognizance, or to approve the sureties offered on any bond or recognizance, in any case of a criminal nature, may require any person offered as surety thereon to make affidavit of his qualifications, or to be examined orally under oath touching the same, and such court or officer may take such affidavit or administer such oath.

Surety—Residence.

SEC. 151. One surety on every such recognizance must be a resident freeholder of the county in which the prosecution is pending, and the surety or sureties must be worth at least double the sum to be secured, and must have property in this state, liable to

execution, equal to the sum to be secured; and when two or more sureties are offered to the same recognizance, they must have in the aggregate the qualifications prescribed in this section: *Provided,* That whenever by the laws of this state a surety company is authorized to become surety on recognizance bonds, such surety company may be accepted as sufficient surety on any such bond. The form of any such recognizance may be substantially as prescribed in section eighty-two of this act.

Continuing Recognizance.

SEC. 152. In any criminal proceeding when the defendant so desires or the court in its discretion directs it, instead of the recognizance mentioned in the preceding section, the defendant shall be required to enter into a recognizance, with at least two sureties, one of whom must be a freeholder of the county where the cause is pending, or with a surety company, as provided in the last section, which recognizance shall be continuing, and the defendant shall not be required to renew it during the pendency of the proceedings, unless ordered to do so by the court for cause shown. Such recognizance shall at once be filed in the office of the clerk of the proper court, and recorded in the order book and entered on the judgment docket, as provided in section one hundred and sixty-one of this act and shall bind the real estate of all the recognizors in the county where the recognizance is entered into, from the time of such record and entry. At each term of the court after such recognizance is taken, the court shall inquire into the sufficiency of the sureties. The form of any such recognizance may be substantially as prescribed in section eighty-two of this act.

Informal Recognizance—Bond Not Void.

SEC. 153. No recognizance, undertaking or bond, taken in any criminal proceeding, shall be void for want of form or of substance or for omission of any recital or condition, or because the same was entered into on Sunday, nor shall the principal or surety be discharged, but the principal and surety shall be bound by such recognizance, undertaking or bond, to the full extent contemplated by the law requiring the same, and the sureties to the amount specified in such recognizance, undertaking or bond. And no action upon such recognizance, undertaking or bond shall be defeated for any want of form or substance, or for the omission of any recital or condition, or because the same was entered into on Sunday, or for the neglect of the clerk to indorse or record it, but the recognizors shall be bound thereby, to the full extent specified therein. A recognizance may be recorded after execution has been awarded.

Bail in Murder.

SEC. 154. When any person is indicted for murder, the court in which the indictment is pending, upon motion, or in vacation the judge of the circuit or criminal court, upon application by writ of habeas corpus, may admit the defendant to bail, when it appears upon examination that he is entitled to be let to bail.

Surrender of Principal.

SEC. 155. When a surety on any recognizance desires to surrender his principal, he may procure a copy of the recognizance from the clerk, by virtue of which such surety, or any person authorized by him, may take the principal in any county within the state.

Surrender Before Judgment.

SEC. 156. Any surety, at any time before final judgment against him upon a forfeited recognizance, may surrender his principal in open court, or to the sheriff, and upon payment of such costs as the court may adjudge to be paid by him, may thereupon be discharged from any further liability upon the recognizance.

Form of Surrender.

SEC. 157. Such surety must deliver a certified copy of the recognizance to the sheriff, with the principal; and the sheriff must accept the surrender of the principal, and acknowledge it in writing.

May Give New Bail.

SEC. 158. Any defendant, so surrendered, may give other surety, or remain in custody until discharged by due course of law.

Forfeiture.

SEC. 159. If, without sufficient excuse, the defendant neglect to appear for trial or judgment, or upon any other occasion when his presence in court may be lawfully required, according to the condition of his recognizance, the court must direct the fact to be entered upon its minutes, and the recognizance, or money deposited in lieu thereof, as the case may be, is thereupon forfeited.

Suit on Recognizance.

SEC. 160. The prosecuting attorney shall, as soon as such fact of forfeiture is entered, proceed by action upon the recognizance. Such action shall be governed by the rules of civil pleading, so far as applicable. At any time after forfeiture and at any time before suit upon the recognizance, the surety may pay the amount named in the bond to the clerk of the court, who shall give him a receipt thereof [therefor].

Recognizance Record—Lien.

SEC. 161. All recognizances, taken to secure the appearance of a defendant in the criminal or circuit court to answer a criminal charge, shall be immediately recorded by the clerk of such court in the order book and entered in the judgment docket, and from the date of such recording and entry such recognizance shall be a lien upon all the real estate in such county owned by the several obligors. Judgments on such forfeited recognizance shall bind and be a lien upon all the real estate of the principal and sureties, within the county in which such judgment is rendered, from the date of such recording and entry of such recognizance in the clerk's office, the date of which lien shall be stated in such judgment of the court. And such judgment shall be executed without relief from valuation or appraisement laws.

Judgment—Collection.

SEC. 162. Any judgment upon a recognizance forfeited by the principal is collectible upon execution, unless remitted by the governor, although such principal is afterwards arrested on the original charge.

Subrogation.

SEC. 163. Whenever any person has been compelled to pay to any prosecuting attorney, clerk of the court, or sheriff, under mere color of judicial proceedings in attachment or garnishment at the suit of the state, the amount of any forfeited recognizance, such person so paying shall, from the date of such payment, be subrogated as against the recognizors in such recognizance, to all the rights of the state under such recognizance, and shall have a cause of action against such recognizors for the amount so paid, as if such recognizance and all the rights of the state under the same had been assigned by the state to the person or persons so paying, at the date of such payment.

Prosecutor, When a Party.

SEC. 164. Whenever any claim or claims to which any person is subrogated under the foregoing section shall be sought to be enforced by any action or legal proceedings, the proper prosecuting attorney shall be made a party to the action or proceedings, to answer as to the fact of such payment and to protect the interests of the state in such action or proceedings: *Provided,* That nothing in this or the preceding section contained shall, in any event, create any liability or authorize judgment against the state, or render the state, or such attorney, liable for any cost in such action or proceedings.

Return of Process by Sheriff.

SEC. 165. The sheriff must return every process issued to him with his doings fully indorsed thereon, and every process, judgment and commitment of the circuit and criminal courts must be executed by the sheriff.

PLEADINGS.

Style of Prosecution.

SEC. 166. All criminal prosecutions must be in the name of the State of Indiana.

Forms and Rules.

SEC. 167. The forms of pleading in criminal actions, and the rules by which the sufficiency of pleadings is to be determined, are those hereinafter prescribed.

First Pleading.

SEC. 168. The first pleading on the part of the state is either an indictment or affidavit.

Indictment or Affidavit.

SEC. 169. The indictment or affidavit must contain:

First. The title of the action, specifying the name of the court to which the indictment or affidavit is presented, and the names of the parties.

Second. A statement of the facts constituting the offense in plain and concise language without unnecessary repetition.

Indictment Form.

SEC. 170. The indictment may be substantially in the following form:

In the ..... court of Indiana, ... term, 19.. (stating the proper court and county).

State of Indiana vs. A..... B.....

The grand jury of the county of ..... upon their oath do present that A B, on the ..... day of ....., 19.., at the county of ....., in the State of Indiana (here set forth the act charged as an offense).

Affidavit Form.

SEC. 171. The affidavit may be substantially in the same form as that given for an indictment, substituting for the words, "the grand jury of the county of ....., upon their oath do present" the following: "C D, being duly sworn on his oath, says." It shall not be necessary in an affidavit to state the reason why the proceeding is by affidavit instead of indictment. And in any

prosecution by affidavit, it shall not be necessary to prove the facts showing the right so to prosecute by affidavit, unless such facts are put in issue by a verified plea in abatement.

Amendment of Affidavit.

SEC. 172. The affidavit may be amended in matter of substance or form at any time before the defendant pleads. When the affidavit is amended it shall be sworn to. No amendment of the affidavit shall cause any delay of the trial, unless for good cause shown.

Construction.

SEC. 173. The words used in an indictment or affidavit must be construed in their usual acceptation, in common language, except words and phrases defined by law, which are to be construed according to their legal meaning.

Charging the Offense.

SEC. 174. Words used in the statute to define a public offense need not be strictly pursued, but other words conveying the same meaning may be used.

Statement of Time.

SEC. 175. The precise time of the commission of an offense need not be stated in the indictment or affidavit, but it is sufficient if shown to have been within the statute of limitations, except where the time is an indispensable ingredient in the offense; and when, with reference to a particular day, the words "on or about" are used, the last two words "or about" shall be regarded as mere surplusage.

What Need Not Be Stated.

SEC. 176. Neither presumptions of law, nor matters of which judicial notice is taken, need be stated in an indictment or affidavit.

Judgment—How Pleaded.

SEC. 177. In pleading a judgment or other determination of a court or officer of special jurisdiction, it is sufficient to allege generally that the judgment or determination was duly made or had before such court or officer; but the facts constituting the jurisdiction must be established on the trial.

Private Statute—How Pleaded.

SEC. 178. In pleading a private statute of this state, or a right derived therefrom, it is sufficient to refer to the statute by its title and the day of its approval, and the court must take judicial notice thereof.

Wrong Name of Accused.

SEC. 179. If the defendant be accused by a wrong name, unless he declare his true name before pleading, he shall be proceeded against by the name in the indictment or affidavit.

Name—Entry of Record.

SEC. 180. If he allege that another name is his true name, it must be entered in the minutes of the court, and the subsequent proceedings on the indictment or affidavit may be had against him by that name, referring also to the name by which he is accused.

Separate Counts.

SEC. 181. The felony or misdemeanor may be charged in separate counts of the indictment, or affidavit, to have been committed by different means.

Joinder of Counts.

SEC. 182. Counts for murder in the first and second degree, and for manslaughter, may be joined in the same indictment, and on the trial the defendant may be convicted of either offense.

Second Degree Murder—Manslaughter.

SEC. 183. In an indictment for murder in the second degree, or in an indictment or affidavit for manslaughter, it shall not be necessary to set forth the manner in which, or the means by which, the death was caused; but it shall be sufficient in an indictment for murder in the second degree, to charge that the defendant did purposely and maliciously, but without premeditation; and in an indictment or affidavit for manslaughter, that the defendant did unlawfully kill the deceased.

Perjury or Subornation.

SEC. 184. In an indictment or affidavit for perjury or subornation of perjury, it shall be necessary to set forth only the substance of the controversy or the matter in respect to which the crime was committed, and in what court or before whom the oath alleged to be false was taken, and that the court or person before whom it was taken had authority to administer it, with the proper averments to falsify the matter whereof the perjury may be assigned, without setting forth any part of any record or proceeding, or the commission or authority of the court or other authority before which the perjury was committed. And in an indictment or affidavit for perjury in swearing to any written instrument, it shall only be necessary to set forth that part of the instrument alleged to have been falsely sworn to, and to negative the same, with the name of the officer or court before whom the instrument was sworn to.

Larceny—Joinder of Counts.

SEC. 185. An indictment or affidavit for larceny may contain a count for obtaining the same goods by burglary, for obtaining the same goods by robbery, and for obtaining the same property by false pretense, a count for embezzlement thereof, and a count for receiving or concealing the same property, knowing it to have been stolen, or any of such counts, and the accused may be convicted of either offense, and the court or jury trying the cause may find all or any of the persons accused guilty of any of the offenses charged.

Averments as to Elections.

SEC. 186. When an offense is committed in relation to any election, an indictment or affidavit as to such offense shall be deemed sufficient if it allege that such election was authorized by law, without stating the names of the officers holding the election, or the persons voted for, or the offices to be filled at such election.

Averment as to Money, Etc.

SEC. 187. In every indictment or affidavit for the offenses referred to in this act in which it is necessary to make an averment as to any money, or bank bills, or notes, United States treasury notes, postal orders or other bills, or notes issued by any lawful authority, and intended to pass and circulate as money, it shall be sufficient to describe such money, bills, notes or currency, simply as money, without specifying any particular coin, note, bill or currency, and such allegation shall be sustained by proof of any amount of coin, or of any such note, bill or currency, although the particular species of coin of which such amount was composed, or the particular nature of such note, bill or currency be not proved.

Written Instrument—Description.

SEC. 188. In all other cases, except forgery, when it is necessary to make an averment in an indictment or affidavit, as to any instrument, whether the same consists wholly or in part of writing, printing or figures, it shall be sufficient to describe such instrument by any name or designation by which the same is usually known, or by the purport thereof.

Forged Instrument—Misdescription.

SEC. 189. When an instrument which is the subject of an indictment or affidavit for forgery, or for uttering any forged instrument, has been destroyed, or is withheld by the act or procurement of the defendant, and the fact of the destruction or withholding is alleged in the indictment or affidavit, and established on the trial, the misdescription of the instrument is immaterial.

Names of Partners, Joint Owners—Allegation.

SEC. 190. When any offense is committed upon or in relation to any property belonging to partners, or to several joint owners, or which, when the offense was committed, was in possession of a bailee or tenant, the indictment or affidavit for such offense shall be deemed sufficient, if it allege the ownership of such property to be in such partnership by its firm name, or in any one of such partners, owners, bailors or bailees, tenant or tenants, without naming all of them; and in an indictment or affidavit for stealing, destroying or mutilating a will, codicil or other testamentary instrument, it shall not be necessary to allege that the will, codicil or other instrument, is the property of any person or of any value.

When Indictment Sufficient.

SEC. 191. The indictment or affidavit is sufficient if it can be understood therefrom:

First. That the indictment was found by the grand jury of the county, or the affidavit presented by the prosecuting attorney of the circuit in which the court was held.

Second. That the defendant is named or described, in an indictment, as a person whose name is unknown to the grand jurors, or, in an affidavit, unknown to the prosecuting witness.

Third. That an offense was committed within the jurisdiction of the court, or is triable therein.

Fourth. That the offense charged is clearly set forth in plain and concise language, without unnecessary repetition, and,

Fifth. That the offense charged is stated with such a degree of certainty, that the court may pronounce judgment upon a conviction according to the right of the case.

When Not to Be Quashed.

SEC. 192. No indictment or affidavit shall be deemed invalid, nor shall the same be set aside or quashed, nor shall the trial, judgment or other proceeding, be stayed, arrested or in any manner affected for any of the following defects:

First. For a mistake in the name of the court or county, in the title thereof.

Second. For the want of an allegation of the time or place of any material fact, when the venue and time have once been stated in the indictment or affidavit.

Third. That dates and numbers are represented by figures.

Fourth. For an omission of any of the following allegations, viz.: "With force and arms;" "contrary to the form of the statute;" or "against the peace and dignity of the State of Indiana."

Fifth. For an omission to allege that the grand jurors were impaneled, sworn or charged.

Sixth. For any surplusage or repugnant allegation, when there is sufficient matter alleged to indicate the crime and person charged.

Seventh. For the omission of the words "as appears by the record."

Eighth. For omitting to state the time at which the offense was committed, in any case in which time is not the essence of the offense, or for stating the time imperfectly, unless time is of the essence of the offense.

Ninth. For omitting a statement of the value or price of any matter or thing or the amount of damages or injury in any case where the value or price or the amount of damages or injury is not of the essence of the offense.

Tenth. For any other defect or imperfection which does not tend to the prejudice of the substantial rights of the defendant upon the merits.

PLEAS TO THE INDICTMENT OR AFFIDAVIT.

Copy to Accused.

SEC. 193. Whenever requested by the accused, or his counsel, the clerk of the proper court shall make and deliver to the accused a copy of the indictment or affidavit: *Provided*, The person accused has been arrested.

Motion to Quash.

SEC. 194. The defendant may move to quash the indictment or affidavit when it appears upon the face thereof either:

First. That the grand jury which found the indictment had no legal authority to inquire into the offense charged.

Second. That the facts stated in the indictment or affidavit do not constitute a public offense.

Third. That the indictment or affidavit contains any matter which, if true, would constitute a legal justification of the offense charged, or other legal bar to the prosecution.

Fourth. That the indictment or affidavit does not state the offense with sufficient certainty.

Accused, When Not Discharged.

SEC. 195. If the motion to quash be sustained the defendant shall not be discharged, unless the court should be of opinion that the objection can not be avoided by a new indictment, or affidavit. And in case an indictment or affidavit is quashed, the court shall direct the case to be resubmitted to the grand jury which found

the indictment, or to another grand jury, or the prosecuting attorney may file a proper affidavit against the defendant, charging him with the offense. And the court must detain the defendant in custody, or recognize him with sufficient surety, if the offense be bailable, to answer to the offense, and if necessary recognize the witnesses to appear and testify.

Demand for Trial or Discharge.

SEC. 196. In any case where the defendant is charged with a felony, upon indictment, and the indictment has been quashed, and no grand jury is in session, or when the cause has been appealed to the supreme court and reversed on account of defects in the indictment, he shall have the right to demand that he be prosecuted by affidavit without delay; and if the prosecuting attorney fails to so prosecute, the defendant shall be discharged from custody: *Provided*, That, upon a statement by the prosecuting attorney that he is unable to procure from any one the necessary affidavit, the court, in its discretion, may hold the defendant to await the action of the next grand jury.

Arraignment.

SEC. 197. If the motion to quash be overruled, the defendant shall be arraigned by the reading of the indictment or affidavit to him by the clerk, unless he waive the reading; and he shall then be required to plead immediately thereto, either in abatement or in bar; but the court, for cause shown, may grant him further time to plead.

Plea of Not Guilty—Special Defense.

SEC. 198. In all criminal prosecutions, except as in the next section provided, the defendant may plead the general issue orally, which shall be entered on the minutes of the court, and under it the defendant may show and prove on the trial that he has before had judgment of acquittal, or been convicted or pardoned for the same offense, or any matter of defense except insanity. But the defendant may plead specially any matter of defense.

Plea of Insanity.

SEC. 199. When the defendant desires to plead that he was of unsound mind at the time the offense was committed, he himself or his counsel must set up such defense specially in writing, and the prosecuting attorney may reply thereto by a general denial in writing.

Acquittal for Insanity.

SEC. 200. When a person tried upon an indictment or affidavit for a public offense is acquitted on the sole ground that he

was insane at the time of the commission of the offense, the fact shall be found by the jury in the verdict, or by the court, if tried by it, and the defendant shall not be discharged, but shall be forthwith proceeded against upon the charge of insanity; and the verdict of the jury or finding of the court shall be prima facie evidence of his insanity. The proceedings shall conform to those prescribed for the admission of the insane, but no preliminary statement in writing shall be required.

Standing Mute.

SEC. 201. If a defendant stand mute or refuse to plead to an indictment or affidavit, a plea of not guilty must be entered by the court and the trial proceed.

Plea of Guilty.

SEC. 202. If the accused plead guilty, said plea shall be entered on the minutes, and he shall be sentenced, or he may be placed in the custody of the sheriff until sentenced; and if an accused be under the age of twenty-one years, the court may, in its discretion, withhold sentence, and order that the accused be released during good behavior, and the court shall have full power to order his or her rearrest and to pronounce sentence whenever the conduct of the accused shall, in the opinion of the court, make such action proper.

PLACE OF TRIAL AND CHANGE OF VENUE.

Affidavit for Change.

SEC. 203. The defendant may show to the court by affidavit that he believes he can not receive a fair trial, owing to the bias and prejudice of the judge against him, or the excitement or prejudice against the defendant in the county or in some part thereof, and demand to be tried by disinterested triers.

Special Judge.

SEC. 204. In all cases where the change of venue is taken from the judge, he may call any other judge of any circuit, criminal, superior or other court of general jurisdiction to preside in such case and try the same. In all cases where another judge may be called, if it shall be difficult, in the opinion of the court, for any cause to procure the attendance of such other judge, the court, to prevent delay, may appoint any competent and disinterested attorney of this state, in good standing, to act as judge in such cause; and such attorney, if he consent to serve, shall be qualified as other judges, and his appointment and oath shall be filed with the clerk, and be entered on the order book, and he shall have power to hear and determine such cause until the same is finally disposed of.

Judge of Kin—Special Judge.

SEC. 205. No judge of any court shall preside in or try any criminal cause, where he is related to the defendant by marriage or by blood, within the sixth degree of consanguinity, nor where he has been of counsel in the cause, either for the state or for the defendant; and in either of such cases it shall be the duty of the regular judge to select a special judge to try such cause.

Motion by Prosecutor.

SEC. 206. In case any prosecuting attorney shall file a written motion in any criminal cause, showing either of the grounds of disqualification mentioned in the preceding section, such judge shall thereupon cease to preside in the trial of such cause, and the regular judge shall select a special judge to preside therein, as in other cases of change of venue.

Change from County.

SEC. 207. When affidavits for a change of venue are founded upon excitement or prejudice in the county against the defendant, the court, in all cases not punishable by death, may, in its discretion, and in all cases punishable by death, shall grant a change of venue to the most convenient county. The clerk must thereupon immediately make a transcript of the proceedings and orders of court, and having sealed up the same with the original papers, shall deliver them to the sheriff, who must, without delay, deposit them in the clerk's office of the proper county, and make his return accordingly: *Provided, however,* That only one change of venue from the judge and only one change from the county shall be granted.

Jurisdiction—Proceedings.

SEC. 208. The jurisdiction of the court to which the change of venue is granted shall be complete, and the cause must be docketed and stand for trial at the first term thereafter; and such court shall take cognizance of such cause and proceed therein to trial, judgment and execution, in all respects as if the indictment therein had been found and returned by a grand jury impaneled in such court, or if the affidavit had been originally filed therein.

Removal of Accused.

SEC. 209. The sheriff of the county from which the venue is taken, when such defendant is in custody, shall, under the order of the court, transfer and deliver him to the sheriff of the county to which such change is allowed; and upon such transfer and delivery, with a certified copy of such order of change, the sheriff last mentioned shall receive and detain the defendant in his custody until legally discharged therefrom, and give a certificate of such delivery to the other sheriff.

New Prosecution—Election as to County.

SEC. 210. If it shall be necessary to institute a new prosecution for the same offense after such change of venue has been taken, the defendant in such case shall elect, when so required by the court, whether such further prosecution shall be instituted in the court to which or in that from which such change was taken; and thereupon he may be recognized to appear in the court which he elects, or be committed for want of bail, detained in custody or remanded to the county from which the change was taken, as the case may require.

Recognizance—Record—Copy.

SEC. 211. If the defendant give recognizance to appear before the circuit or other proper court of the county from which the change of venue was taken, such recognizance shall be taken of record; and a copy thereof, certified under the seal of the court, shall be delivered to the clerk of the court to which he is recognized, and shall be recorded by such clerk in like manner and have the same force and effect in such last mentioned court as if originally taken therein.

Indictment or Affidavit—Allegations.

SEC. 212. If on such new prosecution such defendant be prosecuted for such offense in the court to which such change of venue was taken, such new indictment may be found, or affidavit filed, and prosecuted to final execution therein, as if such offense had been committed in the county of such court; but the indictment or affidavit in such case shall state how the proceeding came into the court where the party elects to be tried, and that he has elected to be tried in such county.

When Remanded.

SEC. 213. If such defendant refuse to elect in which county such new prosecution may be instituted, he shall be recognized to appear before or be remanded to the proper court of the county from which the change of venue was taken, in like manner as if he had elected to be proceeded against in such county.

Costs of Change.

SEC. 214. In all changes of venue from the county, the county from which the change was taken shall be liable for the expenses and charges of removing, delivering and keeping the prisoner, and the per diem allowance and expenses of the jury trying the cause, and any of the regular panel in attendance and not engaged in the trial, and all other expenses necessarily incurred by the county to which the change is taken consequent upon such change of venue.

Costs—How Taxed.

SEC. 215. All costs and charges specified in the last preceding section, or coming justly and equitably within its provisions, shall be audited and allowed by the court trying such cause, and certified to the auditor of the county from which the change of venue was first taken, to be collected by the auditor of the county to which the change was taken; but where specific fees are allowed by law for any duty or service no more or other costs shall be allowed therefor than could be legally taxed in the court from which such change was taken.

Attorney Appointment—Allowances.

SEC. 216. Whenever in any criminal prosecution, a change of venue shall have been taken from the county in which such prosecution originated, the trial court shall have authority to appoint counsel on behalf of such original county, to prosecute such action, or to defend any poor person defendant therein. Counsel so appointed shall be entitled to reasonable compensation for services in such cause, but the amount thereof shall be settled and allowed by the judge of the court from which the change of venue was first granted.

Sheriff's Expenses.

SEC. 217. The sheriff, for delivering a prisoner to the sheriff of another county, under provisions of this act in relation to change of venue, shall receive the actual and necessary traveling expenses of himself and prisoner, to be allowed by the court from which such change of venue is taken.

CONTINUANCES.

Affidavit of Accused.

SEC. 218. A motion by the defendant to postpone the trial on account of the absence of evidence can be made only on affidavit showing the materiality of the evidence expected to be obtained, and that due diligence has been used to obtain it, and where the evidence may be; and if the postponement be asked on account of an absent witness, the affidavit must show the name and residence of the witness, if known, and the probability of procuring his testimony within a reasonable time. The affidavit must further show that the absence of such witness has not been procured by the act or connivance of the defendant, nor by others at his request, nor with his knowledge and consent, and what facts he believes the witness will testify to, and that he believes them to be true, and that he is unable to prove such facts by any other witness whose testimony can be as readily procured. If, there-

upon, the prosecuting attorney will admit the truth of the facts which the defendant, in his affidavit for a continuance, alleges that he can prove by the absent witness, or by the written or documentary evidence therein specified and described, the trial shall not be postponed for that cause.

Application by Prosecutor.

SEC. 219. Whenever the prosecuting attorney desires to obtain a postponement of the trial of a criminal cause on account of the absence of any witness whose name is indorsed on the indictment or affidavit, such continuance shall be granted on his official statement in manner and form as specified in the preceding section; but the defendant may require the same to be in writing. If the defendant will admit that the facts which the prosecutor states he expects to prove are true, the trial shall not be postponed for that cause. And no defendant shall be detained in jail, without a trial, on an indictment or affidavit, for a continuous period embracing more than two terms after his arrest and commitment thereon; or, if he was in jail at the time the indictment was found or affidavit filed, more than two terms after the term at which the indictment was found or the affidavit first filed; except where a continuance was had on his own motion, or the delay was caused by his act, or where there was not sufficient time to try him during such terms.

Discharge for Delay.

SEC. 220. No person shall be held by recognizance to answer an indictment or affidavit, without trial, for a period embracing more than three terms of court, not including the term at which a recognizance was first taken thereon, if taken in term time; but he shall be discharged unless a continuance be had upon his own motion, or the delay be caused by his act, or there be not sufficient time to try him at such third term; and, in the latter case, if he be not brought to trial at such third term he shall be discharged, except as provided in the next section.

May Refuse to Discharge.

SEC. 221. If when application is made for the discharge of a defendant under either of the last two sections, the court be satisfied that there is evidence for the state, which can not then be had, that reasonable effort has been made to procure the same and that there is just ground to believe that such evidence can be had at the next term, the cause may be continued, and the prisoner remanded or admitted to bail; and if he be not brought to trial by the state at the next term he shall then be discharged.

When Accused Must Be Present.

SEC. 222. No person prosecuted for any offense punishable by death, or by confinement in the state prison or county jail, shall be tried unless personally present during the trial.

When Accused May Be Absent.

SEC. 223. No person prosecuted for an offense punishable by fine only shall be tried without being personally present, unless some responsible person, approved by the court, undertake to be bail for stay of execution and payment of the fine and costs that may be assessed against the defendant. Such undertaking must be in writing, and will be as effective as if entered after judgment.

Accessory Before the Fact.

SEC. 224. Every person who shall aid or abet in the commission of a felony, or who shall counsel, encourage, hire, command, or otherwise procure a felony to be committed, may be charged by indictment, or affidavit, tried and convicted in the same manner as if he were a principal, either before or after the principal offender is charged, indicted or convicted; and upon such conviction he shall suffer the same punishment and penalties as are prescribed by law for the punishment of the principal.

Accessory in Another State.

SEC. 225. Every person who shall, while in this state, aid in and abet the perpetration, or attempt to perpetrate a felony in another state which by the laws of this state is a felony, shall be deemed guilty of a felony; and, on conviction, shall be punished in the same manner and to the same extent as accessories before the fact to the commission of such a felony are prosecuted and punished by the criminal laws of this state; and it shall not be essential to the conviction of such person of such felony that the principal be prosecuted for the crime charged.

Accessory After the Fact.

SEC. 226. Every person not standing in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity, to any person guilty of any felony, who shall, after the commission of such crime, harbor, conceal or assist any such offender, with intent that he shall escape from detection, arrest, capture or punishment, shall be deemed an accessory after the fact, and may be charged, indicted, tried, convicted and punished, though the principal be neither charged, indicted, tried nor convicted; and, on such conviction, he shall suffer the same punishment and penalties as are prescribed by law for the punishment of the principal. But in such charge

the offense committed by the principal offender shall be stated, and it shall therein be charged that the accessory did so harbor, conceal, or assist such offender, with intent that he should escape detection, arrest, capture or punishment.

THE JURY, HOW IMPANELED.

How Called—Solicitation.

SEC. 227. The petit or trial jury used in civil cases shall act also in criminal cases, but shall consist of twelve qualified jurors; and where a jury trial is demanded, the sheriff shall call a jury in the manner prescribed by law or as directed by the court. Any person who solicits or attempts to influence the sheriff, or any of his deputies or bailiffs, to put him or another person on the jury shall be punished by imprisonment as for contempt. If any person be placed on the jury by such request it shall be good cause for challenge or new trial.

Challenges by Accused.

SEC. 228. In prosecutions for capital offenses, the defendant may challenge, peremptorily, twenty jurors; in prosecutions for offenses punishable by imprisonment in the state prison, ten jurors; in other prosecutions, three jurors. When several defendants are tried together, they must join in their challenges.

Challenges by State.

SEC. 229. The prosecuting attorney shall have the same number of peremptory challenges as the defendant has in like cases.

Causes for Challenge.

SEC. 230. The following shall be good causes for challenge to any person called as a juror in any criminal trial:

First. That he was a member of the grand jury that found the indictment.

Second. That he has formed or expressed an opinion as to the guilt or innocence of the defendant. But if a person called as a juror state that he has formed or expressed an opinion as to the guilt or innocence of the defendant, the court or the parties shall thereupon proceed to examine such juror on oath as to the ground of such opinion; and if it appear to have been founded upon reading newspaper statements, communications, comments or reports, or upon rumors or hearsay, and not upon conversation with witnesses of the transaction, or reading reports of their testimony, or hearing them testify, and the juror state on oath that he feels able, notwithstanding such opinion, to render an impar-

tial verdict upon the law and evidence, the court, if satisfied that he is impartial and will render such verdict, may, in its discretion, admit him as competent to serve in such case.

Third. If the offense charged be punishable with death, that he entertains such conscientious opinions as would preclude his affixing the death penalty if the defendant should be found guilty.

Fourth. That he is related within the fifth degree to the person alleged to be injured or attempted to be injured, by the offense charged, or to the person on whose complaint the prosecution was instituted, or to the defendant.

Fifth. That he has served on a petit jury which was sworn in the same case against the same defendant, and which jury was discharged after hearing the evidence, or rendered a verdict which was set aside.

Sixth. That he served as a juror in a civil case brought against the defendant for the same act.

Seventh. That he has been subpœnaed in good faith as a witness in the case.

Eighth. That he is an habitual drunkard.

Ninth. That he is an alien.

Tenth. That he has been called to sit on the jury at his own solicitation or that of another.

Eleventh. That he is biased or prejudiced for or against the defendant.

Twelfth. That he does not have the qualifications for a juror prescribed by law.

Thirteenth. That, from defective sight or hearing, ignorance of the English language or other cause, he is unable to comprehend the evidence and the instructions of the court.

Fourteenth. That he has a personal interest in the result of the trial.

Fifteenth. If he is not a member of the regular panel, that he has served on a jury within twelve months immediately preceding the trial.

Challenges Summarily Tried.

SEC. 231. All challenges for cause shall be made before the jury is sworn to try the cause, and shall be summarily tried by the court on the oath of the party challenged or other evidence.

Talesmen.

SEC. 232. Whenever it becomes necessary to summon a juror from the bystanders, the court shall instruct the sheriff to call no person as a juror who has either solicited or been recommended for the position; and the court may, of its own motion or at the request of either party, direct the sheriff to summon the talesmen from persons outside the court house.

WITNESSES.

Witness—How Summoned.

SEC. 233. Witnesses on behalf of the state or of the defendant, in a criminal prosecution, may be compelled to attend and testify in open court, if they have been subpœnaed, without their fees being first paid or tendered. The court may recognize witnesses, with or without surety, to attend and testify at the same or the next term.

Rules of Evidence—Competency of Witnesses.

SEC. 234. The rules of evidence prescribed in civil cases and concerning the competency of witnesses shall govern in criminal cases, except as otherwise provided in this act.

Who Are Competent Witnesses.

SEC. 235. The following persons are competent witnesses:

First. All persons who are competent to testify in civil actions.

Second. The party injured by the offense committed.

Third. Accomplices, when they consent to testify.

Fourth. The defendant, to testify in his own behalf. But if the defendant do not testify, his failure to do so shall not be commented upon or referred to in the argument of the cause, nor commented upon, referred to, or in any manner considered by the jury trying the same; and it shall be the duty of the court, in such case, in its charge, to instruct the jury as to their duty under the provisions of this section.

Gaming.

SEC. 236. Any person called as a witness to testify against another for gaming, or for keeping any gaming apparatus or any devise [device] or trick to procure money, or for keeping a place to be used for gaming, or for engaging in any lottery scheme or gift enterprise or raffle, is a competent witness to prove the offense, although he may have been concerned as a party, and he shall be compelled to testify as other witnesses; but such evidence shall not be used against him in any prosecution for such or any other offense, and he shall not be liable to trial by indictment or affidavit, or to punishment for such offense.

Misdemeanor—Use of Evidence.

SEC. 237. Whenever any person is required to testify touching the commission of any misdemeanor, his evidence therein shall not be used in any prosecution against him, except in case of perjury committed by him therein; and he shall not be liable to trial by indictment or affidavit, or to punishment for such misdemeanor.

Experts as to Writing.

SEC. 238. Persons of skill may be called to testify touching the genuineness of a note, bill, draft or certificate of deposit, or other instrument of writing; but three witnesses at least shall be required to prove the fact of genuineness, except in the case of a larceny thereof. The single evidence of the cashier of the bank purporting to have issued any such instrument may be received as, and deemed, prima facie evidence of such genuineness.

Confession.

SEC. 239. The confession of a defendant made under inducement, with all the circumstances, may be given in evidence against him, except when made under the influence of fear, produced by threats or by intimidation or undue influences; but a confession made under inducement is not sufficient to warrant a conviction without corroborating evidence.

General Moral Character.

SEC. 240. In all questions affecting the credibility of a witness, his general moral character may be given in evidence.

Discharge of Defendant to Testify.

SEC. 241. When two or more persons are included in one prosecution, the court may, at any time before a defendant has gone into his defense, direct him to be discharged, that he may be a witness for the state. A defendant may also, when there is not sufficient evidence to put him on his defense, at any time before the evidence is closed, be discharged by the court for the purpose of giving testimony for a co-defendant. The order of discharge shall be a bar to another prosecution for the same offense.

Depositions.

SEC. 242. A defendant, by leave of court or by written notice to the prosecuting attorney, may take the depositions of witnesses residing within or without the state, to be read on the trial; and the request of the defendant for such leave of court, or the giving by him of such notice to the prosecuting attorney, shall be deemed a waiver of his constitutional right to object to the taking of depositions of witnesses by the state, relative to the same matter, to be read on the trial: *Provided*, That leave to take such depositions be given the state, or notice of the taking of such depositions be given to the defendant by the prosecuting attorney.

Rape—Proof.

SEC. 243. In prosecutions for rape, proof of penetration shall be sufficient evidence of the commission of the offense.

Seduction—Proof.

SEC. 244. In prosecutions for seduction, and for enticing and taking away a female for the purpose of prostitution, the evidence of the female must be supported by at least one other witness, or by strong corroborating circumstances as to every material point necessary to the commission of the offense.

Receiving Stolen Goods—Proof.

SEC. 245. In any prosecution for the offense of buying, receiving, concealing, or aiding in the concealing of any stolen property, it shall not be necessary, on the trial thereof, to prove that the person who stole such property has been convicted.

Written Instruments—Chattels.

SEC. 246. Bonds, promissory notes, bank notes, bills of exchange, or other bills, orders, drafts, checks or certificates, for or concerning money or property due or to become due or to be delivered, any deed or writing containing a conveyance of land, or any valuable contract in force, or any receipt, release or defeasance, or any other written instrument, whatever, shall be considered as personal goods, of which larceny may be committed.

Treason—Proof.

SEC. 247. No person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or upon his confession in open court.

Highways—Obstruction—Proof.

SEC. 248. In any prosecution for obstructing a highway, or for neglecting to keep a highway in good repair, it shall be sufficient to prove that it is used and worked as such.

Trespass to Lands.

SEC. 249. In any prosecution for trespass or injury to lands of this state or of the United States, or to the lands of non-residents of this state, or for a violation of any law of this state with respect to them, it shall be prima facie evidence of the ownership of such lands to prove that such lands are reputed, in the neighborhood where such lands lie, to belong to the state or to the United States or to be non-resident's lands.

Public Contracts.

SEC. 250. In all prosecutions against officers for having an interest in public contracts, any contractor with any state officer, or with any appointee or agent of such officer, or with any county, township, town or city officer, or appointee of the same, shall be

compelled to testify against the officer of such state, county, township, town or city; and such officers or their appointees or agents shall be compelled to testify against any contractors therewith; but such evidence shall not be used against the party testifying, in any prosecution against himself, and the person thus testifying shall be exempt from prosecution or punishment for such offense.

Transporting Game.

SEC. 251. The possession by any railroad company, express company, common carrier or person, of any game or birds marked or labeled for any point beyond the limits of this state, or which shall be shown by any way-bill, bill of lading or shipping book, to be intended for delivery at any place beyond the limits of this state, shall be prima facie evidence of the violation of the provisions of law with respect to the transportation of game or birds.

Gaming House.

SEC. 252. It shall be sufficient evidence that any building or other place was rented for the purpose of gaming, if such gaming was actually carried on, and the owner or lessor thereof knew or had good reason to believe that the lessee suffered any gaming therein, and such owner or lessor took no sufficient means to prevent or restrain the same.

Evidence in Civil Suit for Fraud.

SEC. 253. The evidence of any person in any civil action disclosing fraud as against creditors shall not be used against such person in any criminal prosecution for committing such fraud.

Embezzlement by Officer.

SEC. 254. Any failure or refusal to pay over, or to produce public money, or any part thereof, by any officer or other person charged with the collection, receipt, transfer, disbursement, or safe keeping of the public money, or any part thereof, whether belonging to the state, or to any county, civil or school township, municipal corporation, or any other public money whatever, or to account to or make settlement with any proper and legal authority of the official accounts of such officer or person, shall be prima facie evidence of the embezzlement thereof; and upon the trial of any such officer or person for the embezzlement of public money, it shall be sufficient evidence, for the purpose of showing a balance against him, to produce a certified transcript from the books of the auditor of state, or the auditor of the county, or the records of the board of commissioners of the county showing such balance; and the refusal of any such officer or person, whether in or out of office, to pay any draft, order or warrant drawn upon him by the proper

officer for any public money in his hands, no matter in what capacity the same was received or is held by him, or any refusal by any such person or public officer to pay over to his successor any public money or securities promptly, on the legal requirement of any authorized officer of the state or county, shall be taken, on the trial of an indictment or affidavit against him for embezzlement, as prima facie evidence of such embezzlement.

Testimony of Convict.

SEC. 255. When it is necessary to procure the testimony of a person confined in the state prison, women's prison, or in any workhouse, jail or reformatory institution, on the trial of any issue upon an indictment or affidavit, or upon any hearing before a grand jury, the court, or the judge in vacation, may order a subpœna to be issued, directed to the warden of such state prison, or the superintendent or keeper of such workhouse, women's prison, jail or reformatory institution, commanding him to bring the witness named in the subpœna before the court.

Keeper to Bring Witness.

SEC. 256. Such warden, superintendent, or keeper upon receiving such subpœna, shall take such witness, or cause him to be taken, before the court, at the time and place named in the subpœna, and hold him until he is discharged by the court. When so discharged such witness shall be returned, in the custody of the officer, to the place of imprisonment from which he was taken; and such officer may command such assistance as he deems proper for the safe transportation of the witness.

Convict Witness—How Kept.

SEC. 257. When such witness is in attendance upon any court, he may be placed, for safe keeping, in the jail of the county. The county in which the offense was alleged to have been committed shall pay the actual and necessary expense of producing, keeping and returning such witness.

Trial by Court—By Jury.

SEC. 258. The defendant and prosecuting attorney, with the assent of the court, may submit the trial to the court. All other trials must be by jury.

Joint Felony—Separate Trial.

SEC. 259. When the indictment or affidavit is for a felony charged against two or more defendants jointly, any defendant requiring it, before the jury is sworn, must be tried separately.

THE TRIAL.

Order of Trial.

SEC. 260. The jury being impaneled and sworn, the trial shall proceed in the following order:

First. The prosecuting attorney must state the case of the prosecution, and briefly state the evidence by which he expects to support it; and he shall then offer the evidence in support of the prosecution.

Second. The defendant, or his counsel, may then state his defense, and offer evidence in support thereof.

Third. The parties may then respectively offer rebutting evidence only, unless the court, for good reason, in furtherance of justice, permit them to offer evidence upon their original case.

Fourth. When the evidence is concluded, the prosecuting attorney and the defendant or his counsel may, by agreement, in open court, submit the case to the court or jury trying the same, without argument. But if the case be not so submitted without argument, the prosecuting attorney shall have the opening and closing of the argument; but he shall disclose, in the opening, all the points relied on in the case, and if, in the closing, he refer to any new point or fact not disclosed in the opening, the defendant or his counsel shall have the right of replying thereto, which reply shall close the argument in the case. If the prosecuting attorney shall refuse to open the argument, the defendant or his counsel may then argue the case. If the defendant or his counsel refuse to argue the case after the prosecuting attorney has made his opening argument, that shall be the only argument allowed in the case.

Fifth. The court must then charge the jury; which charge, upon the request of the prosecuting attorney, the defendant or his counsel, made at any time before the commencement of the argument, shall be in writing, and the instructions therein contained numbered and signed by the court. In charging the jury the court must state to them all matters of law which are necessary for their information in giving their verdict. If he present the facts of the case, he must inform the jury that they are the exclusive judges of all questions of fact, and that they have a right also to determine the law.

Sixth. If the prosecuting attorney, the defendant or his counsel desire special instructions to be given to the jury such instructions shall be reduced to writing, numbered and signed by the party or his attorney asking them, and delivered to the court before the commencement of the argument. Such charge or charges of the court, or any special instructions, when so written and given by the court shall in no case be orally qualified, modified or in any manner orally explained to the jury by the court.

Reasonable Doubt.

SEC. 261. A defendant is presumed to be innocent until the contrary is proved. When there is a reasonable doubt whether his guilt is satisfactorily shown, he must be acquitted. When there is a reasonable doubt in which of two or more degrees of an offense he is guilty, he must be convicted of the lowest degree only.

Juror—Personal Knowledge.

SEC. 262. If a juror have any personal knowledge respecting any fact material to the cause, he must declare it in open court during the trial. If, during the retirement of the jury, a juror declare a fact which could be evidence in the cause, as of his own knowledge, the jury must return into court. In either of these cases, the juror making the statement must be sworn as a witness, and examined in the presence of the parties. If the court deem any such evidence material to the cause, the jury shall be discharged without prejudice and another jury summoned to try the cause.

Jurors Instructed at Adjournment.

SEC. 263. When the jurors are permitted to separate, after being impaneled, and at each adjournment, they must be admonished by the court that it is their duty not to converse among themselves, nor suffer others to converse with them, on any subject connected with the trial, or to form or express any opinion thereon, until the cause is finally submitted to them.

Inspection of Place.

SEC. 264. Whenever, in the opinion of the court and with the consent of all the parties, it is proper for the jury to have a view of the place in which any material fact occurred, it may order them to be conducted in a body, under the charge of an officer, to the place, which shall be shown to them by some person appointed by the court for that purpose. While the jury are thus absent, no person, other than the officer and the person appointed to show them the place, shall speak to them on any subject connected with the trial.

Deliberation—Communicating.

SEC. 265. After hearing the charge, the jury may either decide in court or retire for deliberation. They may retire under the charge of an officer, who must be sworn by the clerk to keep them together in some private and convenient place, and furnish them food as directed by the court, and not permit any person to speak or communicate with them, nor do so himself unless by order of the court, or to ask them whether they have agreed upon their

verdict, and return them into court, when so agreed, or when ordered by the court. The officer shall not communicate to any person the state of their deliberations; and if he does he shall be punished as for a contempt, and shall not be further employed as a bailiff in such court.

Verdict—Polling Jury.

SEC. 266. When the jury have agreed upon their verdict, they must be conducted into court by the officer having them in charge. Their names must then be called, and, if all appear, their verdict must be rendered in open court. If all do not appear, the rest must be discharged without giving a verdict, and the cause must be tried again at the same or the next term. The defendant shall have the right, in all criminal cases, to have the jury polled.

Wrong Offense Charged.

SEC. 267. When it appears, at any time before verdict or finding, that a mistake has been made in charging the proper offense, or that the defendant is guilty of an offense not charged, such defendant shall not be discharged, if there appear to be good cause to detain him in custody; but the court must recognize him to answer to the offense and, if necessary, recognize the witnesses to appear and testify.

Trial in Wrong County.

SEC. 268. When it appears, at any time before verdict or finding, that the defendant is prosecuted in a county not having jurisdiction of the offense, the court shall order that all the papers and proceedings be certified and transmitted to the proper court of the proper county, and order the sheriff to take the defendant and deliver him to the sheriff of the proper county, there to await the action of the proper court of such county. The witnesses also shall be recognized to appear at such other court, that the prosecution may be proceeded with according to law.

Jury Discharged.

SEC. 269. When a jury has been impaneled or cause submitted in either case contemplated in the last two preceding sections, such jury may be discharged or submission set aside without prejudice to the prosecution.

Minor's Imprisonment.

SEC. 270. When any person under the age of twenty-one years shall be convicted of any crime the punishment for which is imprisonment in the state prison, or in the Indiana reformatory, imprisonment in the county jail for any determinate period may be substituted.

Verdict—Different Degrees.

SEC. 271. Upon an indictment or affidavit for an offense consisting of different degrees, the jury may find the defendant not guilty of the degrees charged in the indictment or affidavit, and guilty of any degree inferior thereto or of an attempt to commit the offense.

One Offense Included in Another.

SEC. 272. In all other cases the defendant may be found guilty of any offense, the commission of which is necessarily included in that with which he is charged in the indictment or affidavit.

Effect of Conviction or Acquittal.

SEC. 273. When the defendant has been convicted or acquitted upon an indictment or affidavit for an offense consisting of different degrees, the conviction or acquittal shall be a bar to another indictment or affidavit for the offense charged in the former, or for any lower degree of that offense, or for an offense necessarily included therein.

Verdict.

SEC. 274. When the defendant is found guilty, the jury, except in the cases provided for in the next three sections, must state, in the verdict, the amount of fine and the punishment to be inflicted; where the plea is guilty, or the trial is by the court, the court, subject to the same exception, shall assess the amount of fine and fix the punishment to be inflicted.

Verdict in Felonies—Age—Sentence to Reformatory.

SEC. 275. In all cases of felony tried before any court or jury in this state, if the defendant, being a male person, be found guilty of any crime other than treason or murder, it shall be the duty of the court or jury to further find whether he is over sixteen and less than thirty years of age. If such defendant be found to be between said ages, it shall be stated in the finding or verdict only that he is guilty of the crime charged, naming it, and that his age is that so found to be his true age. In such case, the court, instead of pronouncing against the defendant a definite term of imprisonment in the state prison, shall sentence him to the custody of the board of managers of the Indiana reformatory, to be confined in said reformatory, or at such other place as may be designated by such board where he can be safely and properly cared for, as guilty of the crime so found against him, and that he be confined therein for a term not less than the minimum nor more than the maximum time prescribed by the statutes of this state as the punishment for such offense, subject to the rules and regulations established by

such board of managers. And it shall be the duty of such board to receive all such convicted persons; any provision of this act requiring the courts of this state to sentence such persons to the state prison is hereby so modified as to make it the duty of the courts to sentence them to the reformatory. The board of managers, after such minimum period, may terminate such imprisonment when the rules and requirements of the reformatory have been lived up to and fulfilled.

Verdict—Age—Sentence to State Prison.

SEC. 276. Whenever any male person thirty years of age or over shall be on trial for any felony except treason or murder, the court or jury trying the cause shall ascertain only his age and whether he is guilty of the offense charged; and if more than one offense be charged it shall be found of which, if any, of such offenses he is guilty, and of which, if any, he is not guilty. Instead of pronouncing against such defendant a definite term of imprisonment, the court, after such finding or verdict of guilty, shall pronounce against him a sentence of imprisonment in the state prison for an indeterminate period, stating in such sentence the maximum and minimum limits thereof, as such maximum and minimum limits of time for the punishment of such offense are now or may hereafter be prescribed by law.

Copy of Record to Superintendent.

SEC. 277. The clerk of each court sentencing a criminal under the provisions of either of the two preceding sections shall transmit with the commitment a record containing a copy of the indictment or affidavit filed in the case, the name and residence of the judge presiding at the trial, also of the prosecuting attorney, and of each of the jurors and witnesses, besides a statement of any fact which the judge may deem necessary for a full comprehension of the case.

Judgment—Costs.

SEC. 278. When the defendant is found guilty, the court shall render judgment accordingly; and the defendant shall be liable for all costs, unless the court or jury trying the cause expressly find otherwise.

Acquittal—Costs.

SEC. 279. When a defendant is acquitted in a criminal action, he shall not be liable for any costs, except when otherwise provided in this act.

NEW TRIAL.

Definition.

SEC. 280. A new trial is a re-examination of the issues in the same court.

Effect.

SEC. 281. The granting of a new trial places the parties in the same position as if no trial had ben had; the former verdict can not be used or referred to, either, in the evidence or in the argument.

Causes—Motion.

SEC. 282. The court shall grant a new trial to the defendant for the following causes, or any of them:

First. Irregularity in the proceedings of the court, or jury, or for any order of the court or abuse of discretion by which the defendant was prevented from having a fair trial.

Second. When the jury has separated without leave of the court, after retiring to deliberate upon the verdict.

Third. When the jury has received and considered any evidence, paper or document not authorized by the court.

Fourth. When the jury has been guilty of any misconduct tending to prevent a fair and due consideration of the case.

Fifth. When the verdict has been found by means other than a fair expression of opinion on the part of all the jurors.

Sixth. Accident or surprise which ordinary prudence could not have guarded against.

Seventh. Error of law occurring at the trial.

Eighth. Newly discovered evidence, material for the defendant, which he could not, with reasonable diligence, have discovered and produced at the trial.

Ninth. When the verdict of the jury or the finding of the court is contrary to law, or is not sustained by sufficient evidence.

The motion for a new trial and the causes therefor shall be in writing and must be filed within thirty days from the date of the verdict or finding; and any such cause not disclosed in the record shall be sustained by affidavit. The motion must be filed in open court, if the court be then in session; otherwise it shall be filed with the clerk of the court.

ARREST OF JUDGMENT.

Causes.

SEC. 283. A motion in arrest of judgment is an application in writing, on the part of the defendant, asking that no judgment be rendered on a plea, finding or verdict of guilty, and may be granted by the court for either of the following causes:

First. That the grand jury which found the indictment had no legal authority to inquire into the offense charged, for the reason that such offense was not within the jurisdiction of the court.

Second. That the facts stated in the indictment or affidavit do not constitute a public offense.

The court may also, on its view of any of these defects, arrest the judgment without motion. The effect of allowing a motion in arrest of judgment is to place the defendant in the same situation in which he was before the indictment was found or affidavit filed, except in cases otherwise provided for.

Defendant Recommitted.

SEC. 284. When judgment is arrested in any case, and there is reasonable ground to believe that the defendant can be convicted of an offense, if properly charged, the court may order the defendant to be recommitted or admitted to bail anew, to answer a new indictment or affidavit.

EXCEPTIONS.

Exceptions, Taking.

SEC. 285. On the trial of a criminal prosecution, exception may be taken by the defendant to any decision of the court upon a matter of law, by which his substantial rights are prejudiced.

Appeal by State.

SEC. 286. The prosecuting attorney may except to any decision of the court during the prosecution of any cause, and reserve the point of law for the decision of the supreme court. The bill of exceptions must state clearly so much of the record and proceedings as may be necessary for a fair statement of the question reserved. In case of the acquittal of the defendant, the prosecuting attorney may take the reserved case to the supreme court upon an appeal at any time within one year. The supreme court is not authorized to reverse the judgment upon such appeal, but only to pronounce an opinion upon the correctness of the decision of the trial court. The opinion of the supreme court shall be binding upon the inferior courts and shall be a uniform rule of decision therein. When the decision of the trial court is decided to be erroneous, the appellee must pay the costs of the appeal.

Time for Bill.

SEC. 287. The party objecting to a decision must except thereto at the time the decision is made; but he may reduce such exception, or exceptions, to writing at any time during the term, or, by leave of court, within such time thereafter as the court may allow. All bills of exceptions must be presented, within the time allowed, for

the signature and approval of the judge, after which they shall be filed with the clerk: *Provided,* That if a motion for a new trial shall be filed in a cause, in which motion any decision, so excepted to, is assigned as a reason for such new trial, such motion shall carry such decision and exception forward to the time of ruling on such motion; and time may then be given by the court within which to reduce such exception, or exceptions, to writing, and to prepare and present such bill of exceptions.

Bill to Clerk—When.

SEC. 288. In case of the death, disability or absence of the judge trying the cause, the bill of exceptions may be presented to the clerk, who shall indorse thereon the date of such presentation, and such presentation to the clerk, if made within the time allowed by the order of the court, shall be regarded as a compliance with such order; and in case of the death, resignation or removal from office of such judge, his successor shall be authorized to approve and sign such bill of exceptions. When the judge has been appointed specially, and, by reason of the death, disability or absence of such special judge, his approval of the bill of exceptions can not be procured, then the regular judge may approve the bill.

Contents of Bill—Record.

SEC. 289. The bill of exceptions must contain so much of the evidence as is necessary to present the questions of law upon which the exceptions were taken; but it shall not be necessary for the bill to contain all of the evidence given in the cause or proceeding, unless the decision of the court, or the verdict of the jury, shall be called in question as being contrary to law, or not sustained by sufficient evidence. In case an original bill of exceptions shall be incorporated into the transcript of the record of any case on appeal, such original bill shall, in every case, constitute a part of such transcript, as if copied therein by the clerk, whether such original bill or a copy thereof be specified in the praecipe, or otherwise directed to be incorporated into such transcript: *Provided,* That every pleading, motion in writing, report, deposition or other paper, filed or offered to be filed, in any cause or proceeding, whether received by the court, refused or stricken out, shall be a part of the record from the time of such filing or offer to file; and any order or action of the court in respect to any such pleading, motion in writing, report, deposition or other paper, and every exception thereto taken by any party shall be entered by the clerk on the minutes or record of the court, and the same when so entered shall be a part of the record without any bill of exceptions. Every oral motion, and the ruling of the court thereon and the exceptions taken thereto, shall be entered upon the record or minutes

of the court and shall be a part of the record without any bill of exceptions: *"And provided, further,* That a motion to strike out or insert any matter, and the ruling thereon, shall not be a part of the record without a bill of exceptions, unless the matter to be stricken out or inserted is set out in full in such motion."

JUDGMENT.

When Pronounced.

SEC. 290. After a finding or verdict of guilty, against the defendant, if a new trial be not granted, or the judgment be not arrested, the court must pronounce judgment.

Defendant Present.

SEC. 291. For the purpose of judgment, if the conviction be for an offense punishable by death or imprisonment, the defendant must be personally present; if for a fine only he must be personally present, or some responsible person must undertake for him to replevy the judgment and costs; judgment may then be rendered in his absence.

Defendant Brought Into Court.

SEC. 292. When the defendant is convicted of any offense, if he be in custody, the court may direct the officer in whose custody he is to bring him before it for judgment.

Warrant for Arrest.

SEC. 293. If in any case the defendant be not present when his personal attendance is necessary, the court may order the clerk to issue a warrant for his arrest, which may be served in any county of this state, as a warrant of arrest in other cases is served.

Defendant Asked to Show Cause.

SEC. 294. When the defendant appears for judgment, he must be informed by the court of the verdict of the jury, or the finding of the court, and asked whether he have any legal cause to show why judgment should not be pronounced upon him.

Judgment Rendered.

SEC. 295. If no sufficient cause be alleged or appear to the court why judgment should not be pronounced, it shall thereupon be rendered.

When May Bind to Keep the Peace.

SEC. 296. In case of a conviction for an offense not punishable by death or imprisonment in the state prison, in addition to the punishment required by law, the court may, in its discretion, re-

quire the defendant to enter into recognizance, with surety in a reasonable sum, to keep the peace for any time not exceeding one year, or, in default thereof, to stand committed.

Judgment for Fine and Costs.

SEC. 297. When the defendant is adjudged to pay any fine and costs, the court shall order him to be committed to the jail of the county until the same are paid or replevied. Such judgment shall be without relief from valuation or appraisement laws.

Costs—What Not to Be Taxed.

SEC. 298. In case of the conviction of a defendant, no cost for mileage or attendance shall be taxed against such defendant in behalf of any witness who was summoned by the state to testify, but whose name was not indorsed upon the indictment or affidavit, and who was not sworn in the cause, or who, if sworn, did not testify to any material fact in aid of the prosecution.

Abatement of Nuisance.

SEC. 299. After any person shall have been convicted of erecting, continuing or maintaining any public nuisance, the court may make it a part of the judgment that such nuisance be removed by the proper officer; and no proceeding to condemn land for a public use shall bar any prosecution for erecting, continuing or maintaining any public nuisance.

Stay.

SEC. 300. Every defendant in a criminal action, against whom a judgment has been rendered, may stay the execution for the fine assessed and costs for ninety (90) days from the rendition of the judgment, by entering replevin-bail in like manner as is provided in civil actions. The entry of replevin-bail shall have the same force as in civil actions.

Execution.

SEC. 301. Upon a judgment for a fine and costs, execution shall be against the property of the defendant, served and returned in the same manner as in civil actions.

Time of Imprisonment.

SEC. 302. Any person imprisoned for failure to pay or replevy any fine or costs may be ordered to be discharged by the court, or by the judge thereof, after being imprisoned one day for every dollar of the fine and costs, if it appear by satisfactory proof that such person is unable to pay or replevy the same; but execution may issue against the property of the defendant, as in case of other judgments.

Imprisonment for Fine—Arrest—Penalty Against Officers.

SEC. 303. Whenever a person is adjudged guilty of a misdemeanor or felony, and his punishment is by fine, or by fine and imprisonment the judgment shall be that he stand committed until such fine is paid or replevied; and it shall be unlawful for the sheriff or constable to release such person until such judgment is either paid in money or replevied by good freehold surety residing in the county where the judgment is rendered. In case such judgment is replevied, it shall be the duty of the clerk, justice of the peace, or city judge, upon the expiration of the time for the stay of execution thereon, to issue to the sheriff or constable a copy of such judgment, with his mandate attached, under the hand or hand and seal of the court; and it shall be the duty of the sheriff or constable to arrest the defendant and commit him to jail unless or until such fine and costs are paid: *Provided*, That any defendant imprisoned under the provisions of this section may be released therefrom as now provided by law. Any clerk, sheriff, justice of the peace or constable failing to perform the duties specified in this section shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in any sum not to exceed one hundred dollars for each offense.

Male Prisoners—Jail—Workhouse—Labor.

SEC. 304. All able-bodied male prisoners, sentenced to any county jail, or workhouse, while held for punishment, or the nonpayment of fines or costs, whether the judgment embraces also imprisonment or is for a fine and costs only, may be put at hard labor upon the public wharves, streets, alleys, or other thoroughfares or public grounds in any city or town in the county where convicted, or upon any public road or highway therein, or upon any other public work, under such rules and regulations as the board of commissioners shall prescribe; and the sheriff or custodian of such prisoners shall obey all such rules and regulations.

Guards.

SEC. 305. The expense incurred in guarding the prisoners while at work outside the limits of the jail or workhouse shall be paid out of the county treasury on the order of the board of commissioners of such county. The guard shall be appointed by the sheriff, and vested with all the powers of a bailiff or deputy sheriff, and shall be, if in any incorporated town, the marshal thereof, and if in any city, the street commissioner thereof, so far as practicable; and such guard shall be paid therefor out of the county treasury such sum as such county board may fix and deem just.

Copy of Judgment to Sheriff.

SEC. 306. When any person is convicted and sentenced to imprisonment in the state prison, Indiana reformatory or women's prison, the clerk must, without delay, certify, under the seal of the court, a copy of the judgment to the sheriff.

Sheriff to Deliver Prisoner.

SEC. 307. The sheriff must, within five days, unless otherwise ordered by the court, convey the convict to such prison or reformatory, and deliver him to the keeper thereof, with a copy of the judgment, and take from the keeper a receipt for the convict.

Female Attendant to Woman Prisoner.

SEC. 307a. The sheriff or other officer charged with the duty of conveying female patients to or from any hospital for the insane, or female persons to or from any of the following institutions: the Indiana school for feeble minded youth, the Indiana woman's prison, the industrial school for girls, or any penal or reformatory institution for women or girls which may hereafter be constructed, or any insane hospital or asylum for mental defectives or any similar institution which may hereafter be constructed, shall be accompanied by a woman, unless the transfer is made in charge of a woman: *Provided,* That in case the husband, father or son of the patient or prisoner shall accompany the officer such female attendant may be dispensed with. Such female attendant shall be paid the fees and mileage allowed by law to the sheriff or his deputy in such cases.

Sheriff May Demand Assistance.

SEC. 308. The sheriff, in conveying a convict to such prison or reformatory, may demand the assistance of any sheriff, jailer or citizen, and the use of any jail in any county through which he may pass, as occasion may require.

Convict Kept at Hard Labor.

SEC. 309. Whenever any person is imprisoned in the state prison, he shall be kept at hard labor therein during the period for which he was sentenced.

Death Penalty—Executioner.

SEC. 310. The punishment of death prescribed by law shall be inflicted by hanging by the neck until the person is dead, which hanging shall take place before the hour of sunrise upon such day, not less than one hundred days after conviction, as the court may adjudge. The warden of the state prison, or, in case of his death, disability or absence, his deputy, shall be the executioner.

Warrant for Execution.

SEC. 311. Whenever any person is sentenced to death, the clerk of the court in which sentence is pronounced, at the expiration of two weeks thereafter, shall issue his warrant, under the seal of the court, reciting the conviction and sentence, and directed to the warden of the state prison, commanding him to proceed, at the time and place named in the sentence, to carry the same into execution, as provided in the previous section, and shall intrust such warrant to the sheriff of the county, to be by him delivered to the said warden, together with the condemned person, as provided in the following section.

Sheriff's Duty.

SEC. 312. Immediately upon receipt of such warrant the sheriff shall transport such condemned person to the state prison, and shall there deliver him and the warrant aforesaid into the hands of the warden, and shall take from the warden his receipt for such person and warrant, which receipt the sheriff shall return to the office of the clerk of the court where the judgment of death was rendered.

Prisoner Confined—Who May See.

SEC. 313. Upon the receipt of such condemned person by the warden of the state prison, he shall be confined therein until the time for his execution arrives, and, while so confined, all persons outside of said prison shall be denied access to him, except his physician and lawyers, who shall be admitted to see him when necessary to his health or the transaction of business, and the relatives, friends and spiritual advisers of the condemned, who shall be admitted to see and converse with him at all proper times, under such reasonable regulations as may be made by the directors and warden of the prison.

Execution Inside Prison.

SEC. 314. The execution shall take place inside the walls of the state prison, and within an enclosure to be erected or arranged for that purpose, if none suitable exists, under the direction of the warden and the board of directors, which enclosure shall be higher than the gallows, and be so constructed as to exclude entirely the view of persons outside.

Who May Be Present.

SEC. 315. The following persons may be present at the execution, and none other: The warden and such persons as may be necessary to assist him in conducting the execution; the directors of the prison; two physicians, including the prison physician; the

spiritual adviser of the condemned; the chaplain of the prison; and any of the relatives or friends of the condemned person, not exceeding ten in number, that he may request shall be admitted.

Escape—Re-Arrest.

SEC. 316. If the person condemned escape after sentence and before his delivery to the warden, and be not re-arrested until after the time fixed for execution, any person may arrest him and commit him to the jail of the county in which he was sentenced; and thereupon the court of such county, on notice of such arrest being given by the sheriff, shall again appoint a time for the execution, not less than thirty days from the date of such appointment, which appointment shall be by the clerk of said court immediately certified to the warden of the state prison, and such clerk shall place such certificate in the hands of the sheriff, who shall deliver the same, together with the warrant aforesaid and the condemned person to the warden, who shall receipt to the sheriff for the same and proceed at the appointed time to carry the sentence of death into execution, as hereinbefore provided.

Escape from Warden.

SEC. 317. If the condemned person escape after his delivery to the warden, and be not retaken before the time appointed for his execution, any person may arrest him and commit him to the state prison, whereupon the warden shall certify the fact of his escape and recapture to the court in which sentence was passed; and the court shall again appoint a time for the execution, which shall be not less than thirty days from the date of such appointment; and thereupon the clerk of such court shall certify such appointment to the warden, who shall proceed at the time so appointed, to execute the condemned, as hereinbefore provided.

Respite—Death—Pardon.

SEC. 318. When execution of sentence is suspended or respited to another day, the same shall be noted on the warrant, and on the arrival of such day the warden shall proceed with such execution; and in case of the death of any condemned person before the time for his execution arrive, or of his pardon, or of the commutation of his sentence by the governor, or of the reversal of the judgment of conviction, no execution shall be had, but in all such cases, as well as when the sentence is executed, the warden shall return the warrant and certificate, with a statement of any such act and with his proceedings indorsed thereon, to the clerk of the court in which sentence was passed, who shall record said warrant and return in the record of the cause.

Warden's Pay for Execution.

SEC. 319. The warden conducting the execution shall be allowed therefor the sum of fifty dollars, to be paid him out of the treasury of the county in which judgment of execution was rendered; and the auditor of such county shall draw his warrant for said sum, payable to the warden upon the certificate of the clerk of such county, showing the return by the warden of the death warrant, with execution of sentence indorsed thereon.

Execution of Woman.

SEC. 320. The provisions of the foregoing sections in relation to the infliction of the death penalty, shall extend equally, so far as applicable, to the case of any woman convicted and sentenced to death.

Pregnancy of Female Prisoner.

SEC. 321. If a woman sentenced to death appear to be pregnant, and the physician of the prison shall certify in writing to the warden that in his opinion such woman is pregnant, the warden shall forthwith give notice to the judge of the circuit court of the county in which such prison is located, and shall also deliver a copy of such certificate of such physician to such judge. Such judge shall thereupon appoint a time at which an inquiry into such pregnancy shall be had at said prison; and the sheriff of such county shall thereupon summon a jury of six impartial men to meet at said prison on the appointed day for such inquiry, and shall also give immediate notice to the prosecuting attorney of such county of the time and place of such inquiry.

Inquiry Attendants—Finding.

SEC. 322. The judge, prosecuting attorney and clerk of such circuit court shall attend such inquiry, and the clerk shall keep a record of the proceedings. Witneses may be produced and examined before the jury. The findings shall be in writing, signed by the foreman of the jury and filed in the office of the clerk of the county in which said women's prison is located.

Execution Suspended—Governor's Warrant.

SEC. 323. If it appear by such finding that such woman is with child, the warden shall suspend the execution of the sentence, and shall transmit a copy of such finding and the record of the proceedings had before such jury, duly certified by such clerk under the seal of the court, to the governor. When the governor becomes satisfied that such woman is no longer pregnant, he shall issue a warrant appointing a day for her execution.

APPEAL.

To Supreme Court.

SEC. 324. An appeal to the supreme court or to the appellate court, may be taken by the defendant as a matter of right, from any judgment in a criminal action against him, in the manner and in the cases prescribed herein; and, upon the appeal, any decision of the court or intermediate order made in the progress of the case may be reviewed.

By State—Causes.

SEC. 325. Appeals to the supreme court, or to the appellate court may be taken by the state in the following cases and no other:

First. Upon a judgment for the defendant, on quashing or setting aside an indictment or affidavit.

Second. Upon an order of the court arresting judgment.

Third. Upon a question reserved by the state.

Transcript on State's Appeal.

SEC. 326. In case of an appeal from a question reserved on the part of the state, it shall not be necessary for the clerk of the court to certify in the transcript any part of the proceedings and record except the pleadings, the bill of exceptions and the judgment of acquittal. When the question reserved is defectively stated, the supreme court, or the appellate court, may direct any part of the proceedings and record to be certified to such court.

Effect of State's Appeal.

SEC. 327. An appeal taken by the state shall in no case stay or affect the operation of the judgment in favor of the defendant until the judgment is reversed.

Appeals When.

SEC. 328. All appeals must be taken within one year after the judgment is rendered, or in case a motion for a new trial is filed, within one year after the ruling on such motion. The transcript must be filed within ninety days after the appeal is taken.

Any Defendant May Appeal.

SEC. 329. When several defendants are tried jointly, any one or more of them may take an appeal; but those who do not join in the appeal shall not be affected thereby.

How Taken.

SEC. 330. An appeal by the state may be taken by the service of a written notice upon the clerk of the court where the judgment was rendered, stating that the appellant appeals from the

judgment; and a similar notice must be served upon the defendant or his attorney. If neither the defendant nor his attorney can be found, then the notice to them may be given by posting up such notice three weeks in the clerk's office in a conspicuous place. If the appeal be taken by the defendant, a similar notice must be served upon the prosecuting attorney. The parties may waive such written notice, or enter in writing their appearance to such appeal. But any such appeal by either party shall not be deemed perfected until the filing of the record thereof in the office of the clerk of the court to which the appeal is taken.

By Defendant—Effect.

SEC. 331. An appeal to the supreme court or to the appellate court from a judgment of conviction will not stay the execution of the sentence, except where the punishment is to be death, or the judgment is for a fine, or for a fine and costs only; in which cases the execution of the sentence may be stayed by an order of such court or a judge thereof. Where the punishment is to be imprisonment, with a fine and costs also, the execution of the sentence as to the fine, or the fine and costs only, may in like manner be stayed. In the case of an appeal from a judgment in a capital case, the order of suspension shall specify the day unto which the execution of the sentence is stayed.

Trial of Appeal.

SEC. 332. An appeal shall stand for trial immediately after filing the transcript and the notice of appeal, if the court to which the appeal is taken be in session; if not in session, then as soon thereafter as the court shall be in session. Appeals from judgments in capital cases shall have precedence over all others.

Informality—Correction—Dismissal.

SEC. 333. An appeal shall not be dismissed for any informality or defect in taking the appeal, if the same be corrected in a reasonable time. After an appeal has been dismissed, another appeal may be taken within a year from the date of the judgment.

Technical Errors Disregarded.

SEC. 334. In consideration of the questions which are presented upon an appeal, the court shall not regard technical errors or defects, or exceptions to any decision or action of the trial court, which did not, in the opinion of the court to which the appeal is taken, prejudice the substantial rights of the defendant.

Power of Court of Appeal.

SEC. 335. On appeal, the court may reverse, modify or affirm the judgment appealed from, and may, if necessary or proper, order

a new trial. In any case, the cause must be at once remanded to the trial court, with proper instructions, and the opinion of the court shall also be immediately certified to the trial court.

Rehearing.

SEC. 336. A rehearing in criminal cases may be allowed as in civil actions.

Opinions Written and Recorded.

SEC. 337. All opinions of the supreme court or the appellate court in criminal prosecutions must be given in writing and recorded in the order-book.

Judgment of Court.

SEC. 338. When a judgment against the defendant is reversed, and it appears that no offense whatever has been committed, the court rendering such decision on appeal must direct that the defendant be discharged; but if it appear that the defendant is guilty of an offense, although defectively charged in the indictment or affidavit, the court must direct the warden of the state prison, or the chief officer in charge of the penal or reformatory institution in which the defendant is confined, to cause the prisoner to be delivered over to the jailer of the proper county, there to abide the order of the court in which he was convicted.

Affirmance.

SEC. 339. On a judgment or affirmance, against the defendant, the original judgment must be carried into execution as the court to which the appeal is taken may direct.

GENERAL PROVISIONS.

Corporations Punishable.

SEC. 340. Corporations may be prosecuted, by indictment or affidavit, for erecting, continuing or maintaining a public nuisance, or for obstructing a public highway or navigable stream.

Definitions.

SEC. 341. All definitions of terms in the act prescribing the rules for pleading and practice in civil actions are adopted in this act, so far as the same are applicable.

Imprisonment—Where.

SEC. 342. Whenever it is provided in this act that a criminal shall be punished by imprisonment in the state prison, or shall be committed to the custody of the warden of such prison, and such criminal is a woman, then such provision for imprisonment shall

be understood and construed to mean that such criminal, being a woman, shall be confined in the women's prison; and in case such criminal is a male between the ages of sixteen and thirty, and is guilty of a crime other than treason or murder, then such provision for imprisonment shall be understood to mean that he shall be confined in the Indiana reformatory, or elsewhere as the law provides; and in any such case the duties prescribed for the warden and other officers of such prison shall be performed by the superintendent and other corresponding officers of the women's prison, or Indiana reformatory, as the case may be; and in all other cases, so far as applicable, the term "state prison" shall be construed to include also such women's prison and Indiana reformatory.

Person Defined.

SEC. 343. When the term "person" or other words, is used to designate the party whose property is the subject of an offense, or against whom any act is done, with intent to defraud or injure, the term may be construed to include the United States or any foreign government, this state or any other state or territory, or any public or private corporation.

Laws and Usages.

SEC. 344. In all criminal cases where no special provision has been made in this act, the rules of pleading and practice in civil actions shall govern, so far as applicable.

OFFENSES AGAINST THE SOVEREIGNTY OF THE STATE.

Treason—Definition—Punishment.

SEC. 345. Whoever levies war against this state, or knowingly adheres to its enemies, giving them aid or comfort, is guilty of treason against the State of Indiana; and, on conviction shall suffer death, or be imprisoned in the state prison during life.

Misprision of Treason.

SEC. 346. Whoever, having knowledge that any person has committed treason or is about to commit treason against this state, wilfully omits or refuses to give information thereof to the governor or some judge of the state, as soon as may be, is guilty of misprision of treason; and, on conviction, shall be imprisoned in the state prison for any period not exceeding twenty-one years, and fined in any sum not exceeding ten thousand dollars, and shall also be disfranchised and rendered incapable of holding any office for any period not less than ten years.

OFFENSES AGAINST THE PERSON.

Murder—First Degree.

SEC. 347. Whoever, purposely and with premeditated malice, or in the perpetration of or attempt to perpetrate a rape, arson, robbery or burglary, or by administering poison or causing the same to be administered, kills any human being, is guilty of murder in the first degree, and on conviction shall suffer death, or be imprisoned in the state prison during life.

Murder by Duel.

SEC. 348. Whoever fights a duel with another in this state, and in so doing inflicts a wound upon his antagonist or any other person, whereof the person thus injured shall die, is guilty of murder in the first degree, and on conviction, shall suffer death or be imprisoned in the state prison during life.

Murder by Duel—Outside State.

SEC. 349. Whoever, by previous appointment made within, fights a duel without this state, and, in so doing, inflicts a mortal wound upon any person, whereof the person thus injured shall die within this state, is guilty of murder in the first degree, and, on conviction, shall suffer death or be imprisoned in the state prison during life.

Murder—Second Degree.

SEC. 350. Whoever, purposely and maliciously, but without premeditation, kills any human being, is guilty of murded in the second degree, and, on conviction, shall be imprisoned in the state prison during life.

Manslaughter.

SEC. 351. Whoever unlawfully kills any human being without malice, express or implied, either voluntarily upon a sudden heat, or involuntarily, but in the commission of some unlawful act, is guilty of manslaughter, and, on conviction, shall be imprisoned in the state prison not less than two years, nor more than twenty-one years.

Assault and Battery with Intent.

SEC. 352. Whoever perpetrates an assault or an assault and battery upon any human being, with intent to commit a felony, shall, on conviction, be imprisoned in the state prison not less than two years, nor more than fourteen years, and be fined not exceeding two thousand dollars.

Assault.

SEC. 353. Whoever, having the present ability to do so, unlawfully attempts to commit a violent injury upon the person of another, is guilty of an assault, and, on conviction, shall be fined not exceeding fifty dollars.

Assault and Battery.

SEC. 354. Whoever, in a rude, insolent or angry manner, unlawfully touches another, is guilty of an assault and battery, and, on conviction, shall be fined not more than one thousand dollars, to which may be added imprisonment in the county jail not exceeding six months.

Malicious Mayhem.

SEC. 355. Whoever, purposely and maliciously, with intent to maim or disfigure, cuts, bites or slits the nose, ear or lip, cuts out or disables the tongue, puts out or destroys an eye, cuts off or disables a limb or any member of another person, is guilty of malicious mayhem, and, on conviction, shall be imprisoned in the state prison not less than two years, nor more than fourteen years, and be fined not more than two thousand dollars.

Simple Mayhem.

SEC. 356. Whoever, violently and unlawfully, deprives another of the use of any bodily member, or unlawfully and wilfully disables the tongue or eye, or cuts, bites or slits the nose, ear or lip of another, is guilty of simple mayhem, and, on conviction, shall be fined not less than five dollars, nor more than two thousand dollars, and shall be imprisoned in the county jail not less than twenty days nor more than six months.

Robbery.

SEC. 357. Whoever, forcibly and feloniously takes from the person of another any article of value, by violence or by putting in fear, is guilty of robbery, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years, and be fined not exceeding one thousand dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Kidnapping.

SEC. 358. Whoever kidnaps, or forcibly or fraudulently carries off or decoys from any place within this state, or arrests or imprisons any person, with the intention of having such person carried away from any place within this state, unless it be in pursuance of the laws of this state or of the United States, is guilty of

kidnapping, and, on conviction, shall be fined not less than one hundred dollars nor more than five thousand dollars, and be imprisoned in the state prison not less than two years nor more than fourteen years.

Child Stealing.

SEC. 359. Whoever takes, leads, carries, decoys or entices away a child under the age of fourteen years, with intent unlawfully to detain or conceal such child from its parents, guardian or other person having the lawful charge or custody of such child, and whoever, with the intent aforesaid, knowingly harbors or conceals any such child so led, taken, carried, decoyed or enticed away, on conviction, shall be fined not less than fifty dollars, nor more than one thousand dollars, and be imprisoned in the state prison not less than two years nor more than fourteen years.

Kidnapping for Ransom.

SEC. 360. Whoever kidnaps, takes or carries away any person, or decoys or entices such person away from any place in this state, with the intent of obtaining from any one any money, means, property or thing of value as a ransom, reward or price for the return of the person so kidnapped, taken, carried, decoyed or enticed away, as aforesaid, or whoever shall imprison, detain or hold any person at any place in this state with the intent of obtaining from any one any money, means, property or thing of value as a ransom, reward or price for the return, liberation or surrender of the person so imprisoned, detained or held, shall be deemed guilty of the crime of kidnapping for the purpose of ransom, and, on conviction, shall be imprisoned in the state prison not less than ten years nor more than twenty-one years.

Rape.

SEC. 361. Whoever unlawfully has carnal knowledge of a woman forcibly against her will, or of a female child under fourteen years of age; or whoever, being over seventeen years of age, has carnal knowledge of a woman, other than his wife, which woman is insane, epileptic, idiotic, feeble minded or a pauper inmate of a poor asylum, he knowing of such condition of such woman; or whoever, being over seventeen years of age, has carnal knowledge of a woman who is an inmate of the woman's prison or the Indiana industrial school for girls, is guilty of rape, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than twenty-one years: *Provided,* In cases where the female upon whom the crime is committed is a child under the age of ten years, the punishment shall be imprisonment in the state prison for life.

Sexual Intercourse—Woman with Male Imbecile, Etc.

SEC. 362. Whoever, being a woman over the age of eighteen years and under the age of fifty years, shall consent to be carnally known by any male person over the age of fourteen years, other than her husband, which male person is an epileptic, imbecile, feeble minded or insane, and known to be such by such woman, shall be guilty of a felony, and, on conviction, shall be imprisoned in the women's prison not less than two years nor more than twenty-one years.

Poison, with Intent to Kill.

SEC. 363. Whoever administers, or procures to be administered, any poison to any other human being, or mingles poison with any food, drink or medicine, with intent to kill or injure the person to whom the same shall be administered, if death do not ensue, on conviction, shall be imprisoned in the state prison not less than three years nor more than fourteen years.

Poisoning Springs, Etc.

SEC. 364. Whoever poisons any spring, fountain, well, cistern or reservoir of water, with intent to kill or injure any human being, on conviction, shall be imprisoned in the state prison not less than three years nor more than fourteen years.

Prescribing Medicine When Drunk.

SEC. 365. Whoever, while in a state of intoxication, prescribes or administers any poison, drug or medicine to another, which endangers the life of such other person shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, and be imprisoned in the county jail not less than ten days nor more than three months.

Prescribing Secret Medicines.

SEC. 366. Whoever prescribes any drug or medicine to another, the true nature and composition of which he does not, if inquired of, truly make known, but avows the same to be a secret medicine or composition, and thereby endangers the life of such other person, shall, on conviction, be fined not less than thirty dollars, nor more than one hundred dollars, and be imprisoned in the county jail not less than sixty days, nor more than six months.

Attempt to Procure Miscarriage.

SEC. 367. Whoever prescribes or administers to any pregnant woman, or to any woman whom he supposes to be pregnant, any drug, medicine or substance whatever, with intent thereby to procure the miscarriage of such woman, or, with like intent, uses or

suggests, directs or advises the use of any instrument or means whatever, unless such miscarriage is necessary to preserve her life, shall, on conviction, if the woman miscarries, or dies in consequence thereof, be fined not less than one hundred dollars nor more than one thousand dollars, and be imprisoned in the state prison not less than three years nor more than fourteen years.

Woman Soliciting Medicine for Miscarriage.

SEC. 368. Every woman who shall solicit of any person any medicine, drug, or substance or thing whatever, and shall take the same, or shall submit to any operation or other means whatever, with intent thereby to procure a miscarriage, except when done by a physician for the purpose of saving the life of mother or child, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, and be imprisoned in the county jail not less than thirty days nor more than one year; and any person who, in any manner whatever, unlawfully aids or assists any such woman in a violation of this section shall be liable to the same penalty.

Criminal Libel.

SEC. 369. Whoever makes, composes, dictates, prints or writes a libel to be published, or procures the same to be done, and whoever publishes or knowingly aids in publishing or communicating a libel, or whoever maliciously publishes any false charge of and concerning another, accusing such other person of any crime, or of any degrading or infamous act, or whoever by such means maliciously and falsely charges any woman with want of chastity, shall be deemed guilty of criminal libel, and, on conviction, shall be fined not less than five dollars nor more than one thousand dollars, to which may be added imprisonment in the county jail for not more than six months.

Blackmail.

SEC. 370. Whoever, either verbally, or by any letter or writing, or any written or printed communication, demands of any person, with menaces of personal injury, any chattel, money or valuable securities; or whoever accuses or threatens to accuse, or knowingly sends or delivers any letter or writing or any written or printed communication, with or without a name subscribed thereto, or signed with a fictitious name, or with any letter, mark or designation, accusing or threatening to accuse any person of any crime punishable by law, or of any immoral conduct, which, if true, would tend to degrade and disgrace such person, or in any way subject him to the ridicule or contempt of society; or whoever threatens to do any injury to the person or property of any one,

with intent to extort or gain from such person any chattel, money or valuable security, or any pecuniary advantage whatsoever, or with any intent to compel the person threatened to do any act against his will, with the intent aforesaid, is guilty of blackmailing, and shall, on conviction, be imprisoned in the state prison not less than one year nor more than five years, to which may be added a fine not exceeding one thousand dollars.

OFFENSES AGAINST PROPERTY.

Arson.

SEC. 371. Whoever wilfully and maliciously burns or attempts to burn any dwelling house or other buildings, finished or unfinished, occupied or unoccupied, whether the building be used or intended for a dwelling house or for any other purpose; or any boat, wharf boat, watercraft or vessel, railroad car, interurban or street car, finished or unfinished, or any reaping machine, mowing machine, threshing machine, separator, clover-huller, vehicle, plow, cultivator, or any other agricultural or farming implement; or any bridge whether wholly within this state or not, or any cord-wood in a pile, or any rick, stack or shock of grain, hay or straw, or any grain not severed from the ground, or any fence of whatever material constructed; or the material intended for the construction of any such house, building, boat, bridge, fence, reaping machine, mowing machine, threshing machine, separator, clover huller, vehicle, plow, cultivator, or any other agricultural or farming implement, or any railroad car, interurban or street car; or any tan bark, tree, timber or lumber, or water-tank connected with a railroad; the property so burned or attempted to be burned, being of the value of twenty dollars or upwards, and being the property of another, or being insured against loss or damage by fire, and the burning or attempt to burn being with intent to prejudice or defraud the insurer, is guilty of arson, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than twenty-one years, and fined not exceeding double the value of the property burned or attempted to be burned; and should the life of any person be lost thereby, such offender shall be deemed guilty of murder in the first degree, and shall suffer death or be imprisoned in the state prison during life.

Burning Woods, Prairies, Etc.

SEC. 372. Whoever maliciously or wantonly sets fire to any woods, or to anything growing or being upon any marsh, prairie or grounds, not his own property, or maliciously or wantonly permits any fire to pass from his own marsh, prairie or grounds, to the injury or destruction of the property of any other person, shall,

on conviction, be fined not less than five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not exceeding thirty days.

Burglary.

SEC. 373. Whoever, in the night time, breaks and enters into any dwelling-house, kitchen, smoke house, out-house, shop, office, storehouse, warehouse, mill, distillery, pottery, factory, barn or stable, school-house, church, meeting-house or building used for the purpose of religious worship, boat, wharf boat, or other water craft, car-factory, freight-house, station-house, depot, railroad car, interurban or street car, with intent to commit a felony, is guilty of burglary, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years, and be disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Entering House, Etc., to Commit Felony.

SEC. 374. Whoever, in the day time or night time, enters any dwelling-house, kitchen, smoke house, out-house, shop, office, storehouse, warehouse, mill, distillery, pottery, factory, barn, stable, school-house, church, meeting-house or building used for the purpose of religious worship, boat, wharf-boat or other water craft, car-factory, freight-house, station-house, depot, railroad car, interurban or street car, and attempts to commit a felony, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, and be disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

House Breaking in Day Time to Steal.

SEC. 375. Whoever, in the day time, breaks and enters into any dwelling-house, kitchen, smoke house, out-house, shop, office, storehouse, warehouse, mill, distillery, pottery, factory, barn, stable, school-house, church, meeting-house or building used for the purpose of religious worship, water craft, car-factory, freight-house, station-house, depot, railroad car, interurban or street car, with intent to commit the crime of larceny, shall, on conviction, be imprisoned in the county jail not less than ten days nor more than six months, or in the state prison not less than one year nor more than fourteen years.

House Breaking to Commit Violence.

SEC. 376. Whoever, either in the day time or night time, unlawfully breakes open and enters into any dwelling-house, shop, store, boat or other water craft, in which any person resides or

dwells, and commits or attempts to commit any personal abuse, force or violence, shall, on conviction, be imprisoned in the county jail not less than ten days nor more than six months, or in the state prison not less than one year or more than fourteen years.

Grand Larceny.

SEC. 377. Whoever feloniously steals, takes and carries, leads or drives away the personal goods of another, of the value of twenty-five dollars or upwards, is guilty of grand larceny, and, on conviction, shall be imprisoned in the state prison not less than one year nor more than fourteen years, fined not exceeding double the value of the goods stolen, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Petit Larceny.

SEC. 378. Whoever feloniously steals, takes and carries, leads, or drives away the personal goods of another, of the value of any sum less than twenty-five dollars, is guilty of petit larceny, and, on conviction, shall be imprisoned in the state prison not less than one year nor more than three years, fined in any sum not exceeding five hundred dollars and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period, or he may be imprisoned in the county jail not more than one year and be fined in any sum not exceeding five hundred dollars and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period. Upon a second conviction of petit larceny, the person convicted shall suffer the punishment prescribed for grand larceny.

Larceny of Dog.

SEC. 379. Whoever feloniously steals, takes, or carries away any dog, male or female, upon which dog no taxes are delinquent, and which shall have been listed for taxation at its true cash value as personal property is listed, shall, on conviction, suffer the punishment prescribed for larceny: *Provided*, That this section shall not apply to any dog that is shown to have chased, worried, maimed or killed sheep.

Larceny—Goods from Other States.

SEC. 380. Every person who shall feloniously steal, take and carry, lead or drive away the personal goods of another, in any other state or territory of the United States or any foreign country, and shall bring the same into this state, may be convicted and punished in the same manner as are persons convicted and punished for larceny committed in this state; and in every such case

such larceny may be charged to have been committed in any county of this state into or through which such stolen property shall have been brought. If the goods so stolen be of the value of twenty-five dollars or more, the charge, conviction and punishment shall be as for grand larceny; and if the goods stolen be of the value of less than twenty-five dollars, such charge, conviction and punishment shall be as for petit larceny.

Receiving Stolen Goods.

SEC. 381. Whoever buys, receives, conceals or aids in the concealment of anything of value, which has been stolen, taken by robbers, embezzled, or obtained by false pretense, knowing the same to have been stolen, taken by robbers, embezzled, or obtained by false pretense, shall, if the goods be of the value of twenty-five dollars or more, on conviction, suffer the punishment prescribed for grand larceny, and if the goods be of the value of less than twenty-five dollars shall suffer the punishment prescribed for petit larceny.

Receiving Stolen Goods from Other States.

SEC. 382. Every person who shall buy, receive, conceal or aid in the concealment of anything of value or any personal property that shall have been feloniously stolen, taken by robbers, embezzled or obtained by false pretense in any other state or territory of the United States or any foreign country and brought into this state, and knowing the same to have been so feloniously stolen, taken by robbers, embezzled, or taken by false pretense in any other state or territory of the United States or any foreign country, may be charged, convicted and punished in any county of this state where he or she bought, received, concealed or aided in the concealment of such thing of value or personal property; and, on conviction, if such property be of the value of twenty-five dollars or more, shall suffer the punishment prescribed for grand larceny; and if such thing of value or personal property be of the value of less than twenty-five dollars, he or she shall suffer the punishment prescribed for petit larceny.

Secreting a Will.

SEC. 383. Whoever, during the life of a testator or after his death, feloniously steals, takes and carries away a will, codicil or other testamentary instrument executed by such testator, or, for a fraudulent purpose, destroys or secretes, the same, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years, fined not exceeding one thousand dollars and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Larceny of Public Records.

SEC. 384. Whoever feloniously steals, takes and carries away the whole or any part of any record, record-book or order-book, authorized to be made by any law of this state, or belonging or pertaining to any court of record, justice of the peace, or any state, county, township or municipal office or officer, or any other public record, document or proceeding of any court of record, justice of the peace, state, county, township or municipal office or officer, or any paper, pleading, exhibit or other writing, filed with, in or by any such court of record, justice of the peace, officer or officers, is guilty of felony, without reference to the value of the same, and, on conviction, shall be imprisoned in the state prison not less than six months nor more than fourteen years, fined not exceeding one thousand dollars and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Larceny of Records—Officers.

SEC. 385. Whoever, being an officer, or his deputy, having the custody of any record, book, document, paper or proceeding, specified in the foregoing section, feloniously steals or fraudulently takes away, secretes, withdraws or destroys any such record, book, document, paper or proceeding filed or deposited with him, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years, fined not exceeding one thousand dollars and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Defacing or Destroying Records.

SEC. 386. Whoever maliciously, mischievously or fraudulently alters, defaces, injures, mutilates or destroys the whole or any part of any record, authorized to be made by any law of this state, belonging or pertaining to any court of record, justice of the peace, or any state, county, township or municipal office or officer, or any other public record so authorized, or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer, shall, on conviction, be imprisoned in the state prison not less than six months nor more than fourteen years, fined not exceeding one thousand dollars and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Carrying Off Fruits, Etc.

SEC. 387. Whoever unlawfully enters upon the lands of another and severs from the soil any product or fruit growing thereon, the property of another, of the value of ten cents or upwards, or shall sever from any building, or from any gate, fence or other railing or enclosure, the property of another, or any part

thereof, of the like value, on conviction, shall be fined not exceeding one hundred dollars, to which may be added imprisonment in the county jail not more than six months.

Trespass.

SEC. 388. Whoever, being about to enter unlawfully upon the enclosed or unenclosed land of another, shall be forbidden so to do by the owner, or occupant, or his agent or servant, or who, being unlawfully upon the enclosed or unenclosed land of another, shall be notified to depart therefrom by the owner, or occupant, or his agent or servant, and shall thereafter enter upon such land, or neglect or refuse to depart therefrom, shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than five dollars nor more than fifty dollars.

Embezzlement—Public Funds.

SEC. 389. Whoever, being charged or in any manner intrusted with the collection, receipt, safe-keeping, transfer or disbursement of any money, funds, securities, bonds, choses in action or other property belonging to or under the control of the state or of any state officer, or belonging to or under the control of any county, civil or school township, city or town, or any officer thereof, converts to his own use, or to the use of any other person or corporation, in any manner whatever, contrary to law, or uses by way of investment in any kind of property, or loans, either with or without interest, or deposits with any person or corporation, contrary to law, or exchanges for other funds except as allowed by law, any portion of such money, funds, securities, bonds, choses in action or other property, is guilty of embezzlement, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than twenty one years, fined not exceeding double the value of the money or other property embezzled, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Embezzlement by Officers.

SEC. 390. Any county treasurer, county auditor, sheriff, clerk or receiver of any court, township trustee, justice of the peace, mayor of a city, city judge, constable, marshal of any city or town, or any officer or agent of any county, civil or school township, city, school city, town or school town, who shall fraudulently fail or refuse, at any time during the term for which he was elected or appointed, when legally required by the proper person or authority, to account for, deliver and pay over to such person or persons as may be lawfully entitled to receive the same, all moneys, choses in action, or other property which may have come into his hands by

virtue of his said office, shall be deemed guilty of embezzlement, and, on conviction, shall be imprisoned in the state prison for any period not less than one year nor more than five years, and fined in any sum not exceeding one thousand dollars, and rendered incapable of holding any office of trust or profit for any determinate period.

Embezzlement—Accounting to Successor.

SEC. 391. It shall be the duty of each clerk of the circuit court, sheriff and treasurer of each county in this state, and of every other county, state, township, city or town officer in this state receiving money in his official capacity, at the expiration of his term of office, to pay over to his successor in office all moneys of every description, to whomsoever due, remaining in his hands at the expiration of such term, taking the receipt of such successor therefor; and such successor and his sureties shall be liable therefor on his official bond, as if the same had been originally collected by him; and any clerk, treasurer, sheriff or other such county, state, township, city or town officer, so failing to so pay over such moneys, and any such successor to any clerk, treasurer, sheriff or other such officer who shall fail to pay over any such moneys to parties entitled to receive the same, when called on to do so, shall be deemed guilty of embezzlement, and, on conviction, shall be fined in any sum not exceeding one thousand dollars, and be imprisoned in the state prison not less than one year nor more than five years.

Embezzlement—Employes.

SEC. 392. Every officer, agent, attorney, clerk, servant or employe of any person, firm, corporation or association, who, having access to, control or possession of any money, article or thing of value, to the possession of which his employer is entitled, shall, while in such employment, take, purloin, secrete or in any way whatever appropriate to his own use, or to the use of others, or who shall knowingly permit any other person to take, purloin, secrete or in any way appropriate to his own use, or to the use of others, any money, coin, bills, notes, credits, choses in action or other property or article of value belonging to or deposited with or held by such person, firm, corporation or association in whose employment such officer, agent, attorney, clerk, servant or employe may be, shall be deemed guilty of embezzlement, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years, fined not less than one dollar nor more than one thousand dollars, and be disfranchised and rendered incapable of holding any office of trust or profit for any determinate period: *Provided,* That where the money, coin, bills, notes,

credits, choses in action or other property or article of value, taken, purloined, secreted or appropriated shall be of the value of less than twenty-[five] dollars, the punishment may be imprisonment in the county jail for a period not exceeding one year and a fine not exceeding five hundred dollars: *And provided, further,* That upon a second such conviction for embezzlement the person convicted shall suffer the punishment prescribed for those convicted of embezzlement where the money or property taken is of the value of twenty-five dollars or over.

Embezzlement—Attorneys—Collectors.

SEC. 393. Any attorney at law, or person engaged in making collections for others, who, having money or other thing of value in his possession, or under his control, received for his client or employer, shall fraudulently refuse to pay over or deliver the same to his client or employer, or the person or persons by them designated to receive the same, less the reasonable charges, fees or demands thereon, shall be deemed guilty of embezzlement, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years, fined not less than one dollar nor more than one thousand dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Embezzlement—Railroad Employes.

SEC. 394. Every conductor, clerk or other employe of a railroad company, interurban or street car company, who shall, in the course of his employment, come into the possession of a local or coupon ticket, belonging to any such railroad, interurban or street car company, and shall sell or barter the same, give the same away, or appropriate the same to his own use, with intent to defraud the company, whose employe he is, or to defraud any other such company, shall be deemed guilty of embezzlement, and, on conviction, shall be fined not less than one dollar nor more than five hundred dollars, and imprisoned in the state prison not less than one year nor more than five years.

Embezzlement—Innkeeper.

SEC. 395. Any innkeeper intrusted by his guest or boarder with anything of value for safekeeping, or any person intrusted with anything of value to be carried for hire, who fraudulently applies or converts the same to his own use, is guilty of embezzlement, and, on conviction, shall be imprisoned in the state prison not less than six months nor more than fourteen years, fined not less than one dollar nor more than one thousand dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Embezzlement—Bailee.

SEC. 396. A storage, forwarding or commission merchant, carrier, warehouseman, factor, auctioneer, or his clerk, agent, or employe, who, with intent to defraud, sells, or in any way disposes of, or applies or converts to his own use, any bill of lading, custom-house permit or warehouse receipt, intrusted to or possessed by him, or any property intrusted or consigned to him, or the proceeds or profits of any sale of such property, or who fraudulently fails to pay over such proceeds, deducting usual charges and commissions; and any consignor of any property or his agent, not being the absolute owner thereof, who, with intent to defraud, after delivery thereof for transportation of any wharf-boat, water-craft or vehicle, in any way stops, countermands or changes the consignment thereof, or sells, disposes of or encumbers such property during transit or after the delivery thereof, or in any way converts the same to his own use, is guilty of embezzlement, and, on conviction, shall be imprisoned in the state prison not less than one year nor more than five years, fined not more than one hundred dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Embezzlement—Tenant.

SEC. 397. Whoever, being a tenant, with intent to defraud his landlord, unlawfully disposes of, or applies or converts to his own use, without the authority or consent of such landlord, so much of the crop growing or raised on the leased premises as belongs to the landlord under his contract of leasing with such tenant, is guilty of embezzlement, and, on conviction, shall be imprisoned in the state prison not less than one year nor more than three years.

Embezzlement—Treasurers.

SEC. 398. If the treasurer of state, or any county treasurer or city treasurer, or the treasurer of any town, school city or school town, or any township trustee shall use the money of any particular fund, or the money appropriated by law for any particular purpose, to pay any warrant drawn upon any other fund or appropriation, he shall be deemed guilty of a misdemeanor, and, on conviction, shall be imprisoned in the county jail not less than one month nor more than six months, and fined not less than one hundred dollars nor more than five thousand dollars.

Embezzlement—City or Town Officer.

SEC. 399. A member of the common council of any city or of the board of school trustees of any city or town, or of the board of trustees of any town, or the mayor, president, officer, agent, attorney, clerk or servant of any such corporation, or any township

trustee, who knowingly diverts, appropriates, or applies any funds or a part of any fund, raised under any law by taxation or otherwise, to any other use or purpose than that for which it was raised or appropriated, or who knowingly diverts, appropriates or applies, or assists in diverting, appropriating or applying, any money borrowed on any bond of the corporation, or any part of the proceeds of such bond, to any other use or purpose than that for which such loan was made or bond issued, or to any other use or purpose than is authorized by the charter or law governing such corporation, shall be deemed guilty of embezzlement, and, on conviction, shall be imprisoned in the state prison not less than one year nor more than five years, fined not less than one dollar nor more than one thousand dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Embezzlement—Fiduciaries.

SEC. 400. Whoever, being the administrator of the estate of a decedent, or the executor of a last will, or the guardian of any minor or insane person, or a trustee or other person acting in any fiduciary capacity, without good cause, fails or refuses, when legally required by the proper person or authority, or on demand of a surety on the bond of any such administrator, executor or guardian, to account for or pay over to such person or persons as may be lawfully entitled to receive the same, any money, chose in action, or other property, which may have come into his hands by virtue of his office, duty or trust, shall be deemed guilty of embezzlement, and, on conviction, shall be imprisoned in the state prison not less than one year nor more than five years, fined not exceeding one thousand dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Embezzlement—Banker or Broker.

SEC. 401. If any banker, broker, or person doing a banking business, or any officer, agent or employe of any banking company or incorporated bank doing business in this state, shall fraudulently receive from any person, or persons, firm, company, or corporation, or from any agent thereof, not indebted to such banker, broker, banking company or incorporated bank, any money, check, draft, bill of exchange, stocks, bonds or other valuable thing which is transferable by delivery or endorsement, when at the time of receiving such deposit, such banker, broker, banking company or incorporated bank is insolvent, whereby the deposit so made shall be lost to the depositor, such banker, broker, officer, agent or employe so receiving such deposit shall be deemed guilty of embezzlement, and, on conviction, shall be fined in a sum

double the value of the money or other valuable thing so embezzled and fraudulently taken, and, in addition thereto, shall be imprisoned in the state prison not less than one year nor more than three years. The failure, suspension or involuntary liquidation of such banker, broker, banking company or incorporated bank, within thirty days after the time of receiving such deposit, shall be prima facie evidence of an intent to defraud on the part of such banker, broker, officer, agent or employe of such banking company or incorporated bank.

Bank—Overdraft by Officer.

SEC. 402. Whoever, being president, director, cashier, teller, clerk, officer or employe of any incorporated bank, or of any firm, corporation, person or association doing a banking business, shall knowingly overdraw his account in such bank, or in such other institution doing a banking business, or who shall knowingly draw and receive payment on any check on such bank, firm, corporation, person or banking association when he has no funds to his credit therein without first procuring the written consent thereto of the board of directors of any such incorporated bank, or the manager, or managers of any such firm, corporation, person or association doing a banking business, indorsed on such check, shall be deemed guilty of a felony, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years, and fined in double the sum so received.

Bank—Loan of Funds to Officer.

SEC. 403. Whoever, being president, director, cashier, teller, clerk, officer or employe of any incorporated bank, or of any firm, corporation, person or association doing a banking business, shall, in any way, obtain as a borrower any of the funds of such bank, firm, corporation, person or association doing a banking business, without first executing his note or other evidence of debt therefor, bearing the written consent thereto of the board of directors of any such incorporated bank, or the manager or managers of any other such firm, corporation, person or association doing a banking business, indorsed on such note or other evidence of debt, shall be deemed guilty of a felony and, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years, and be fined in double the amount so received.

Insurance and Trust Companies—Loans.

SEC. 404. Any board of directors, director or officer of any insurance company, loan and trust and safe deposit company, or surety company, doing business in this state, who shall, directly or indirectly, loan any of its funds, moneys, capital or other prop-

erty whatsoever, to any director or officer of such insurance company, loan and trust and safe deposit company, or surety company, and any director or officer of any insurance company, loan and trust and safe deposit company, or surety company, doing business in this state, who shall borrow from such insurance company, loan and trust and safe deposit company, or surety company, any of its funds, moneys, capital or other property whatsoever, shall be deemed guilty of a misdemeanor, and shall, on conviction, be fined not less than one hundred dollars nor more than five hundred dollars, and be imprisoned in the county jail not less than thirty days nor more than six months.

State Arms—Selling or Secreting.

SEC. 405. Whoever unlawfully sells, disposes of, hides, secretes or detains, or refuses to give up to any person authorized to demand and receive them, any of the arms, accoutrements, ordnance stores, camp or garrison equipage, belonging to this state, shall be fined not less than five dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months.

Mortgaged Goods—Removal.

SEC. 406. A mortgagor of personal property in possession of the same, who, without the written consent of the owner of the claim secured by the mortgage, removes any of the property mortgaged out of the county where it was situated at the time it was mortgaged, or secretes or converts the same or any part thereof to his own use, or sells the same or any part thereof to any person without informing him of the existence of such mortgage, shall, on conviction, be fined not exceeding three hundred dollars, to which may be added imprisonment in the county jail not exceeding six months.

Trespass—Malicious.

SEC. 407. Whoever maliciously or mischievously injures or causes to be injured any property of another, or any public property, is guilty of a malicious trespass, and, on conviction, shall be fined not more than twofold the value of the damage done, to which may be added imprisonment in the county jail not more than twelve months.

Telegraph or Telephone—Injury.

SEC. 408. Whoever maliciously or mischievously injures any telegraph pole, electric light pole or electric car pole, telephone pole, or the wire or any part of the apparatus connected there-

with, on conviction shall be fined not less than five dollars nor more than five hundred dollars and imprisoned in the county jail not less than thirty days nor more than six months.

Electric Meters, Etc.—Injury.

SEC. 409. Whoever unlawfully and intentionally injures or destroys or permits to be injured or destroyed any meter, pipe, conduit, wire, line, post, lamp or other apparatus belonging to a company engaged in the manufacture or sale of electricity for light, heat, power or other purposes; or whoever unlawfully and intentionally prevents an electric meter from duly registering the quantity of electricity supplied, or in any way interferes with its proper action or just registration; or, whoever, without the consent of such company, unlawfully and intentionally diverts any electric current from any wire of such company, or otherwise unlawfully and intentionally uses or causes to be used, without the consent of such company, any electricity manufactured or distributed by such company, shall be deemed guilty of a misdemeanor, and, on conviction shall, for every such offense, be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Public Conveyance—Attacking.

SEC. 410. Whoever maliciously or mischievously shoots a gun, rifle, pistol or other weapon, or throws a stone, stick, club or any other substance whatever, at or against any stage coach, or any locomotive, railroad car, or train of cars, street car, or interurban car on any railroad in this state, or at or against any wharfboat, steamboat, or other water-craft, shall be imprisoned in the county jail not less than thirty days nor more than one year, and fined not less than ten dollars nor more than one hundred dollars.

Injury to Person—Penalty.

SEC. 411. In case any person on such stage coach, locomotive, car, train of cars, street car, interurban car, or wharfboat, steamboat or other water craft, shall be injured or wounded by any such act as is specified in the preceding section, the person so offending shall be deemed guilty of an assault and battery with intent to commit murder, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years; and, if death ensue from such act such offender shall be deemed guilty of murder in the second degree, and on conviction, shall be imprisoned in the state prison during life.

Hand-Car—Running Without Consent.

SEC. 412. Any person who shall unlawfully place, put, move, run, or who shall unlawfully cause to be placed, put, moved or run, any hand-car or push-car, speeder, motor car or other car or vehicle upon the track of any railroad, interurban or street railroad, and not having the consent of the owner or operator of such railroad or of the roadmaster or his assistants, shall be deemed guilty of a felony, and, on conviction, shall be fined not exceeding five hundred dollars, and be imprisoned in the state prison not less than six months, nor more than three years, or he may be fined in any sum not exceeding one hundred dollars, and imprisoned in the county jail not exceeding one year.

Railroad Track—Obstructing.

SEC. 413. Whoever wilfully and maliciously places any obstruction upon the track of any railroad, interurban or street railroad or inclined railroad track, or changes any switch or removes the fastenings thereof, so as to endanger the passage of trains, or cars, or breaks, destroys, steals, takes, or carries away any lock or guard upon such switch, or wilfully and maliciously commits any other act in order to throw the engine or cars running upon such railroad from such track, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period; and if from any accident on any such road, resulting from any such act, any person be so injured that death ensue as the immediate consequence thereof, the offender shall be deemed guilty of murder in the first degree, and, on conviction, shall suffer death, or be imprisoned in the state prison during life.

Vines or Trees—Injury.

SEC. 414. Whoever cuts down or destroys, or by girdling or any other means injures any standing or growing vine, bush, shrub, sapling or tree on the land of any other person, or on land belonging to the state, or to any county or township therein, or on any land reserved or granted for the use of schools or colleges, without a license so to do from competent authority, or whoever, without such license, shall cut down or remove from any such lands, or from lands belonging to the United States, any tree, stone, timber or other valuable article, is guilty of a trespass, and, on conviction, shall be fined in five times the value of such property, to which may be added imprisonment, not exceeding twelve months in the county jail.

Tombstones, Etc.—Defacing.

SEC. 415. Whoever wilfully, mischievously or maliciously disfigures, defaces or removes any tombstone, monument, gravestone or other structure erected to perpetuate the memory of any deceased person, persons or event; or whoever, wilfully, mischievously or maliciously disfigures, defaces or removes any fence, railing structure or other work in or around any public or private monument, cemetery or burial place, or any tree, shrub or plant therein, shall on conviction, be fined not less than five dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not more than six months.

Trees on Highway—Injury.

SEC. 416. Whoever shall wilfully, maliciously or mischievously, and without right, cut down or in any way injure any tree on the public highway, shall on conviction, be fined not less than five dollars nor more than five hundred dollars.

Highway, Etc.—Obstructing.

SEC. 417. Whoever, in any manner, wrongfully obstructs any public highway, tow-path, canal, turnpike, plank or coal road, or injures any toll or other bridge, or toll gate, culvert, embankment or lock, or makes any breach in any canal, or injures any material used in the construction of such roads, canals or structures, shall, on conviction, be fined not more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than three months.

Traction Engine—Using on Highway.

SEC. 418. It shall be the duty of any owner or person in charge of a traction or road engine, while using such engine on any public highway, or on any street or alley of any town or city, upon the approach of any horse, team or teams, to drive such engine to one side of the highway, street or alley, when practicable, and to stop such engine until such horse, team or teams have passed; and the whistle of such engine shall not be sounded while such horse, team or teams are passing. Any person violating any provision of this section shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than five dollars nor more than fifty dollars.

Highway—Heavy Hauling.

SEC. 419. It shall be unlawful for any person to haul over any turnpike, gravel or macadam road, at any time when the road is thawing through or by reason of wet weather is in condition to be cut up and injured by heavy hauling, a load on any vehicle

with tires of less than three inches in width, the combined weight of which load and vehicle, including the driver, shall be more than twenty-five hundred pounds; or on any vehicle with tires of three inches and less than four inches in width, the combined weight of which load, vehicle and driver shall be more than three thousand pounds; or on any vehicle with tires of four inches and less than five inches in width, the combined weight of which load, vehicle and driver shall be more than thirty-five hundred pounds; or on any vehicle with tires five inches or over in width, the combined weight of which load, vehicle and driver shall be more than thirty-eight hundred pounds. Any person violating any provision of this section shall, on conviction, be fined not less than five dollars nor more than fifty dollars for each load so hauled: *Provided*, That any road supervisor or gravel road superintendent shall have police power to arrest upon sight any person who is seen violating, or by warrant any person who has violated, any of the provisions of this section within the county or township for which such road supervisor or gravel road superintendent is elected or appointed, and that, on conviction of the defendant in such cause, there shall be assessed by the court trying the same a fee of two dallars in each case, to be paid to the person making such arrest.

Shade Trees—Destroying or Injuring.

SEC. 420. Whoever unlawfully removes, destroys, cuts or girdles any shade tree, or carries off or removes or in any wise injures the protecting box of any shade tree, in any city, town or village of this state, or in any public highway, shall be fined not less than three dollars nor more than fifty dollars; but this section shall not be so construed as to prevent any owner of grounds from making any necessary alterations in the walks or trees on or adjacent to such grounds.

Landmark—Altering or Removing.

SEC. 421. Whoever unlawfully displaces or removes any monument erected for the purpose of designating or perpetuating the corner or any other point in the boundary of any tract of land, or maliciously or mischievously defaces or alters the mark upon any monument, landmark or bearing tree used for the purpose of designating any point, course of line in the boundary of any tract of land, or wilfully cuts down or removes any monument, landmark or bearing tree upon which such mark shall be made, with the intent to destroy or efface such mark, shall on conviction, be fined not less than five dollars nor more than two hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months.

Dams or Drains—Injury.

SEC. 422. Whoever injures any dam, drain, embankment, ditch or other construction made in pursuance of law, or made for the protection of any highway, railroad or bridge, or wilfully destroys or throws down any milepost, guide post, or guide board, or alters or effaces any inscription or device thereon, shall, on conviction, be fined not exceeding fifty dollars, to which may be added imprisonment in the county jail not exceeding ten days.

Legal Notices—Defacing.

SEC. 423. Whoever maliciously or mischievously tears down, removes, destroys or defaces any legal advertisement, handbill or other public notice lawfully posted up in any place not belonging to or occupied by such person, shall, on conviction, be fined not exceeding ten dollars.

Bills—Posting on Buildings.

SEC. 424. Whoever paints, prints, pastes, stencils or otherwise marks upon, or in any manner places upon or affixes to any building, fence, wall, or tree, without the consent of the owner thereof, any word, letter, character, figure, sentence or device, or any handbill or notice, shall, on conviction, be fined not more than fifty dollars nor less than five dollars; but this section shall not apply to the posting of any handbill or notice of any public sale of property by any sheriff, administrator, executor or guardian, or to any notice required by any law to be posted.

Animal Brands—Altering.

SEC. 425. Whoever maliciously alters or defaces the mark or brand of any horse, mare, gelding, foal, filly, jack, mule, ass, sheep, goat, cattle or hog of another, or marks or brands any such animal, with intent to steal the same, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not exceeding six months.

Animals—Injury or Killing.

SEC. 426. Whoever maliciously or mischievously injures or kills, by administering poison, or by means of a deadly weapon, or in any other manner, any horse, mare, gelding, foal, filly, jack, mule, ass, sheep, goat, cattle, or hog of another, shall, on conviction, be fined not less than five dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not exceeding twelve months.

Land Entry or Detainer—Forcible.

SEC. 427. Whoever violently takes or keeps possession of any lands, with menaces, force and arms, and without authority of law, is guilty of forcible entry, or forcible detainer, as the case may be, and, on conviction, shall be fined not exceeding one thousand dollars.

Library Books—Defacing.

SEC. 428. Whoever, having access to, or being in possession of any book, magazine, newspaper, manuscript, map, chart, plan, printing, engraving, photograph or other literary property of any library organized under the laws of this state, or belonging to any educational institution in this state, shall wilfully or mischievously cut, mark, mutilate, deface, write in or upon the same, or otherwise injure the same, or procure the same to be so injured; or whoever shall wilfully or mischievously injure or deface any book, plate or library mark, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Family Boats—Landing.

SEC. 429. Whoever, being the owner, lessee or occupant of, or living in or on any boat commonly called a family, shanty, fish or junk boat, or any other similar water craft, on any river or stream, shall anchor, fasten, tie or beach such boat within the jurisdiction of this state, except at a public landing or in case of distress, for a longer period than ten hours, without the consent of the owner, tenant or occupant of the land where such boat shall be so anchored, landed, fastened, tied or beached, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than five dollars nor more than twenty dollars, or be imprisoned in the county jail not longer than twenty days, or shall be both so fined and imprisoned. And whoever living in or on, or being the owner, lessee or occupant of any such boat or water craft, shall anchor the same near to the Indiana shore of any river or other stream, for a longer period than ten hours, and shall by a skiff, float or any other means effect a landing from such boat within the jurisdiction of this state, except at a public landing or in case of distress, without the consent of the owner, tenant or occupant of the land where such landing is made, shall likewise be deemed guilty of a misdemeanor, and, on conviction, be subject to the penalties in this section hereinbefore prescribed. And whoever, being the owner, lessee or occupant of, or living in or on any such boat, shall carry off, take or appropriate from the shores of any river or stream within the jurisdiction of this state any sand, gravel, coal, wood, timber or other thing of value, shall be deemed guilty of larceny, and, on conviction, shall suffer the penalties prescribed for such offense.

Navigation Signals at Night.

SEC. 430. It shall be unlawful for any person, firm or corporation to have, use or navigate any steamboat, launch, sailboat or other water craft during the night-time on any of the inland lakes or rivers in this state without displaying in a conspicuous place on the bow of such craft one signal light, showing white in front, red on the left side and green on the right side, and also one light on the stern of such craft. All boats or other craft when anchored more than one hundred feet from the shore must display a signal light that can be seen from every direction: *Provided,* That this section shall not apply to row boats when in use nor to any craft when anchored within one hundred feet of the shore. Any person, firm or corporation violating any of the provisions of this section shall, on conviction, be fined not exceeding ten dollars.

OFFENSES AGAINST THE PUBLIC PEACE.

Treason—Commission.

SEC. 431. Whoever begins or sets on foot, or provides or prepares the means for any unauthorized military or naval expedition or enterprise, to be carried on from this state against the territory or people of any other state or of the United States, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, fined not less than one hundred dollars nor more than five thousand dollars, and be disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Treason—Aiding Hostile Army.

SEC. 432. Any person, being a citizen of or residing within this state or under the protection of its laws, who shall take or accept a commission from any person, for the purpose of joining or commanding any army or band of men hostile to or in rebellion against this state or the United States, or who shall knowingly and wilfully aid or assist any enemies in open war or rebellion against this state or the United States, by joining their armies or by enlisting or procuring or persuading others to enlist for the [that] purpose, or by furnishing such enemies or persons in rebellion with arms or ammunition or provisions or any other articles for their aid or comfort, or by shipping, sending or carrying to such enemies or rebels or their agents any arms, ammunition, provisions or other articles for their aid or comfort, or by carrying on a traitorous correspondence with them, or who shall form or be in any wise concerned in forming any combination or plot or conspiracy for betraying this state or the United States, or the armed forces of

either, into the hands or power of any foreign enemy, or into the hands or power of any organized or pretended government engaged in resisting the laws or authority of the government of this state or of the United States, or who shall give or send any intelligence to any such enemies or pretended government or their forces for that purpose, shall, on conviction, be imprisoned in the state prison not less than two years nor more than twenty-one years, and be fined not exceeding ten thousand dollars.

Treason—Privateering.

SEC. 433. Every person who shall, within this state, build, construct, alter or fit out, or who shall aid or assist in building, constructing, altering or fitting out any vessel or boat for the purpose of making war or privateering or other purpose, to be used in the service of any person or parties whomsoever, to make war on this state or on the United States, or to resist by force the execution of the laws of this state or of the United States, or for the purpose of privateering under the authority of any organized or pretended government, shall, on conviction, be imprisoned in the state prison not less than two years nor more than twenty-one years, and be fined not exceeding ten thousand dollars.

Duel—Challenge.

SEC. 434. Whoever gives or accepts a challenge to fight a duel, or agrees to go out of the state for the purpose of fighting a duel or under pretense of fighting a duel, or who carries to any person a challenge to fight a duel, shall, on conviction, be fined not less than one hundred dollars, and be imprisoned not exceeding one year in the county jail, and ever after be ineligible to any office of trust or profit.

Duel—Fighting.

SEC. 435. Whoever fights a duel, if death do not ensue, shall, on conviction, be fined not less than one hundred dollars, and be imprisoned in the county jail not exceeding one year, and shall ever afterward be ineligible to any office of trust or profit.

Prize-Fighting.

SEC. 436. Whoever engages as principal in any prize-fight, or attends any such fight as a backer, trainer, second, umpire, assistant, reporter, or in any other capacity, shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not exceeding six months.

Affray.

SEC. 437. If two or more persons, by agreement, fight in any public place, the persons so offending shall be deemed guilty of an affray, and shall, on conviction, be fined not exceeding five hundred dollars each, or be imprisoned in the county jail not exceeding five days each.

Riot.

SEC. 438. If three or more persons shall do an act in a violent and tumultuous manner, they shall be deemed guilty of a riot, and, on conviction, shall be fined not exceeding five hundred dollars each, to which may be added imprisonment in the county jail not exceeding three months each.

Riotous Conspiracy.

SEC. 439. If three or more persons shall unite for the purpose of doing any unlawful act in the night time, or for the purpose of doing any unlawful act while wearing white caps, masks or being otherwise disguised, they shall be deemed guilty of a riotous conspiracy, and, on conviction, shall each be imprisoned in the state prison not less than two years nor more than ten years, and each be fined in any sum not exceeding two thousand dollars.

Lynching—Mob Defined.

SEC. 440. Any number of persons assembled for any unlawful purpose and intending to injure any person by violence and without authority of law shall be regarded as a mob, and any act of violence exercised by such mob upon the body of any person shall, when such act results in the death of the injured person, constitute the crime of lynching; and any person who participates in or actively aids or abets such lynching shall, on conviction, suffer death or be imprisoned in the state prison during life; and any person who, being a member of any such mob and present at any such lynching, shall not actively participate in the lynching, shall be deemed guilty of abetting such lynching, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than twenty-one years.

Lynching—Accessory After the Fact.

SEC. 441. Every person not standing in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity who, after the commission of the crime of lynching, shall harbor, conceal or aid any member of the mob who participated in or abetted such crime, with the intent that such member of such mob shall escape arrest or punishment, shall be deemed an accessory after the fact, and may be charged,

tried, convicted, and punished as such, although such member of the mob be neither charged nor convicted, and, on conviction thereof, such accessory shall be imprisoned in the state prison not less than two years nor more than twenty-one years.

Lynching—Prosecution of Person.

SEC. 442. Any person accused of the crime of lynching or as an accessory after the fact may be prosecuted in the proper circuit or criminal court, by indictment or by affidavit filed by the prosecuting attorney or by the attorney-general.

Lynching—Prosecution of Sheriff.

SEC. 443. Any sheriff or other officer having any person in his lawful custody, who shall unlawfully suffer or permit such person to be taken from such custody and lynched, shall be deemed guilty of failure of official duty, and on conviction, shall be fined not exceeding one thousand dollars and shall be removed from office and his office declared vacant. The prosecution against such sheriff or other officer in any such case shall be instituted by the attorney-general by presentation in the proper circuit or criminal court on an affidavit against such sheriff or other officer, sworn to by any citizen of the state, charging him with such offense, and indorsed by the attorney-general as is by this act provided in prosecutions by affidavit in other cases by prosecuting attorneys. In case of any such taking and lynching of any such person, the taking of such person from the custody of such sheriff or other officer having him in charge, shall be prima facie evidence of failure of official duty on the part of such sheriff or other officer.

Sheriff—Aid.

SEC. 444. If at any time the sheriff has reason to believe and does believe that any prisoner in his custody is in danger of being lynched, it shall be his duty at once to command all bystanders and others with whom he can directly communicate to aid and assist him in the defense of such prisoner and to furnish such assistance with such weapons as shall be necessary to protect such prisoner. And if any such bystander or other person so requested by the sheriff to aid him shall fail or refuse to assist in defending such prisoner, the person so failing or refusing shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars and be imprisoned in the county jail not exceeding six months.

Sheriff—Military Force.

SEC. 445. If at any time any sheriff has reason to believe, and does believe, that a prisoner in his custody is in danger of being lynched, and that he is not able to protect the life of the prisoner

without additional help, he shall at once notify the governor and ask the aid of the state. Thereupon the governor shall be authorized to furnish such military force as may be necessary to preserve order and protect such prisoner; and the auditor of state shall draw a warrant upon the treasurer of state for payment of the expenses thereby incurred: *Provided, however,* That such sheriff shall not make such demand upon the governor until he shall first have exhausted all other means at his command for the protection of such prisoner.

Rout.

SEC. 446. If three or more persons shall meet together to do an unlawful act upon a common cause, and shall make advances toward the commission thereof, they shall be deemed guilty of a riot [rout], and, on conviction, shall be fined not exceeding one hundred dollars each, or they may each be imprisoned in the county jail not exceeding sixty days.

Provocation.

SEC. 447. Whoever, by words, signs or gestures, provokes or attempts to provoke another to commit an assault or an assault and battery upon him, such other person having then and there the ability to commit such assault or assault and battery, is guilty of criminal provocation, and, on conviction, shall be fined not exceeding twenty dollars.

Weapon—Drawing Dangerous.

SEC. 448. Whoever draws, or threatens to use, any pistol, dirk, knife, slung-shot or other deadly or dangerous weapon, already drawn upon any other person, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than one dollar nor more than five hundred dollars, to which may be added imprisonment in the county jail not exceeding six months: *Provided,* That the provisions of this section shall not apply to a person drawing or threatening to use such dangerous or deadly weapon in defense of his person or property, or in defense of those entitled to his protection by law.

Weapon—Carrying Dangerous.

SEC. 449. Every person, not being a traveler, who shall wear or carry any dirk, pistol, bowie-knife, dagger, sword in cane or any other dangerous or deadly weapon concealed, or who shall carry or wear any such weapon openly, with the intent or avowed purpose of injuring his fellowman, shall, on conviction, be fined not exceeding five hundred dollars. Any such weapon which upon arrest upon this charge shall be found upon the person of such arrested

person shall be taken by the officer making such arrest and, unless such officer be the sheriff, such weapon shall be deposited with such sheriff, and in every instance such weapon shall be held by the sheriff subject to the final order of the court thereupon. In case the arrested person be found guilty of violating this statute by wearing or carrying such concealed weapon there shall be entered as part of the judgment of conviction of said crime an order to the sheriff directing the destruction of such weapon by the justice, mayor, city judge or judge of the criminal or circuit court before whom or in whose court such cause is pending, and the sheriff shall execute the same in the manner and at the time fixed by such order. Any person three times convicted within any period of two years of committing any of the offenses defined in this section shall upon such third conviction be imprisoned in the state prison not more than one year.

Weapon—Furnishing to Minor.

SEC. 450. It shall be unlawful for any person to sell, barter or give to any other person under the age of twenty-one years any pistol, dirk or bowie-knife, slung-shot, knucks or other deadly weapon that can be worn or carried concealed upon or about the person, or to sell, barter or give to any person under the age of twenty-one years any cartridges manufactured and designed to be used in a pistol or revolver. Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than five dollars nor more than fifty dollars.

Toy Pistols.

SEC. 451. It shall be unlawful for any person, firm, company or corporation to manufacture, sell or expose for sale, or give away as a prize or reward, any toy pistol or other device for the purpose of exploding caps or wafers containing fulminates or other explosive compounds; and any person, firm, company or corporation so manufacturing, selling or offering to sell or give away any such toy pistol or other devices, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than ten dollars nor more than fifty dollars, or be imprisoned in the county jail not less than ten days nor more than twenty days.

Weapon—Aiming.

SEC. 452. It shall be unlawful for any person over the age of ten years, with or without malice, purposely to point or aim any pistol, gun, revolver or other firearm, either loaded or empty, at or toward any other person; and any person so offending shall be deemed guilty of an unlawful act, and, on conviction, shall be fined not less than one dollar nor more than five hundred dollars.

Disturbing Meetings.

SEC. 453. Whoever, by any loud or unnecessary talking, hallowing, or by any threatening, abusive, profane or obscene language or violent actions, or by any other rude behavior, interrupts, molests or disturbs any collection of persons convened for the purpose of worship; or who thus disturbs persons attending any agricultural fair or exhibition, or any persons present thereat or going to or returning therefrom; or who, in like manner, interrupts, molests or disturbs any meeting of persons met together for any lawful purpose, shall, on conviction, be fined not less than five dollars nor more than fifty dollars. Sextons of churches, and officers of fairs or other meetings contemplated in this section, are hereby authorized to arrest any persons so disturbing such public meetings.

OFFENSES AGAINST CHASTITY AND MORALITY.

Bigamy.

SEC. 454. Whoever being married, marries again, the former husband or wife being alive, and the bond of matrimony still undissolved, and no legal presumption of death having arisen, is guilty of bigamy, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than five years; or he may be fined not exceeding one thousand dollars, or be imprisoned in the county jail not more than six months, or both.

Bigamy—Proof.

SEC. 455. In case of prosecution for bigamy, it shall not be necessary to prove either of the marriages by the register or certificate thereof, or other record evidence; but either of such marriages may be shown by such evidence as is admissible to prove a marriage in other cases. The offense may be alleged to have been committed, and the trial may take place in the county where such last marriage was solemnized or where co-habitation shall have occurred.

Incest.

SEC. 456. If any step-father shall have sexual intercourse with his step-daughter, knowing her to be such, or if any step-mother and her step-son shall have sexual intercourse together, having knowledge of their relationship, or if any parent shall have sexual intercourse with his or her child, knowing him or her to be such, or if any grandparent shall have sexual intercourse with his or her grandchild, knowing him or her to be such, or if any brother shall have sexual intercourse with his sister, he being over the age of sixteen years, and having knowledge of his relationship, or if any uncle or aunt shall have sexual intercourse with his or her niece, or nephew, having knowledge of his or her relationship, or if any

nephew or niece shall have sexual intercourse with his or her aunt or uncle, such nephew or niece being over the age of sixteen years, and having knowledge of his or her relationship, he or she shall be deemed guilty of incest, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than five years, or may be imprisoned in the county jail not less than six months nor more than one year.

Adultery—Fornication.

SEC. 457. Whoever cohabits with another in a state of adultery or fornication shall be fined not exceeding five hundred dollars, or imprisoned in the county jail not exceeding six months, or both.

Seduction.

SEC. 458. Any male person who, under promise of marriage, shall have illicit carnal intercourse with any female of good repute for chastity, under the age of twenty-one years, shall be deemed guilty of seduction, and, on conviction, shall be imprisoned in the state prison not less than one year, nor more than five years, and fined not exceeding five hundred dollars, or be imprisoned in the county jail not exceeding six months, and fined not exceeding one hundred dollars.

House of Ill-Fame—Enticing Female.

SEC. 459. Whoever entices or takes away any female of previous chaste character, from wherever she may be, to a house of ill-fame or elsewhere, for the purpose of prostitution, shall be imprisoned in the state prison not less than two years nor more than five years, or be imprisoned in the county jail not exceeding one year, and fined not exceeding five hundred dollars.

House of Ill-Fame—Keeping.

SEC. 460. Whoever keeps a house of ill-fame, resorted to for the purpose of prostitution or lewdness, or knowingly lets a house to be so kept, or knowingly permits a house which he has let to be so kept, shall be fined not less than ten dollars, nor more than one hundred dollars, to which may be added imprisonment in the county jail not exceeding six months.

Public Indecency.

SEC. 461. Whoever, being over fourteen years of age, makes an indecent exposure of his person in a public place, or in any place where there are other persons to be offended or annoyed thereby, or uses or utters any obscene or licentious language or words in the presence or hearing of any female, is guilty of public indecency, and, on conviction, shall be fined not less than five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not exceeding six months.

Obscene Literature—Possession or Circulation.

SEC. 462. Whoever sells or lends, or offers to sell or lend, or gives away, or offers to give away, or in any manner exhibits or has in his possession, with or without intent to sell, lend or give away, any obscene, lewd, indecent or lascivious book, pamphlet, paper, drawing, lithograph, engraving, picture, daguerreotype, photograph, stereoscopic picture, model, cast, instrument, or article of indecent or immoral use, or instrument or article for procuring abortion, or for self-pollution, or medicine for procuring abortion or preventing conception, or advertise the same, or any of them, for sale, or writes or prints any letter, circular, handbill, card, book, pamphlet, advertisement or notice of any kind, or gives information orally, stating when, how, where, or by what means, or of whom any of the obscene, lewd, indecent or lascivious articles or things, hereinbefore mentioned can be purchased, borrowed, presented or otherwise obtained, or are manufactured; or whoever manufactures, or draws and exposes, or draws with intent to sell, or have sold, or prints any such articles or things, shall be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months; but nothing in this section, or in the next two sections, shall be construed to affect teaching in regularly chartered medical colleges, or the publication of standard medical books, or the practice of regular practitioners of medicine or druggists in their legitimate business.

Obscene Literature—Sending.

SEC. 463. Whoever knowingly deposits in any postoffice or express office in this state, or places in charge of any person, firm or corporation to be carried or conveyed, any lewd, obscene, indecent or lascivious book, paper, pamphlet, drawing, lithograph, engraving, picture, daguerreotype, photograph, stereoscopic picture, model, cast, instrument or article of indecent or immoral use, or instrument or article for procuring abortion or for self-pollution, or medicine for procuring abortion or preventing conception, or any circular, hand-bill, card, advertisement, book, pamphlet, or notice of any kind, or gives oral information stating when, where, how or of whom, such articles or things or any of them can be purchased or otherwise obtained, or knowingly receives the same or any of them with intent to carry or convey the same, or knowingly carries or conveys the same, except in the United States mail, shall be fined not less than five dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months.

Pernicious Literature or Pictures.

SEC. 464. It shall be unlawful for any person to sell or offer for sale, or to print or publish, or to bring into this state for the purpose of selling, giving away or otherwise disposing of, or to circulate in any way, any paper, book or periodical, the chief feature or characteristic of which is the record of commission of crime or the display by cut or illustration of crimes committed or of the acts or pictures of criminals, desperadoes or of men or women in lewd and unbecoming positions or improper dress. Any person guilty of any violation of this section shall be fined not less than ten dollars nor more than two hundred dollars, to which may be added imprisonment in the county jail not exceeding ninety days.

Drugs for Females—Advertising.

SEC. 465. Whoever prints or publishes any advertisement of any secret drug or nostrum purporting to be for the exclusive use of females, or which cautions females against their use when in a condition of pregnancy, or in any way publishes any account or description of any drug, medicine, instrument or apparatus for preventing conception or for procuring abortion or miscarriage, or sells or gives away, or keeps for sale or gratuitous distribution any newspaper, circular, pamphlet or book containing such advertisement, account or description, or any secret drug or nostrum purporting to be exclusively for the use of females, or for preventing conception or procuring abortion or miscarriage, shall be fined not less than five dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months.

Profanity.

SEC. 466. Whoever, being over fourteen years of age, profanely curses, swears, avers, or imprecates by or in the name of God, Jesus Christ or the Holy Ghost, in a public place or where another person or persons may be offended thereby, is guilty of profanity, and, on conviction, shall be fined not less than one dollar nor more than three dollars for each offense.

Sabbath Breaking.

SEC. 467. Whoever, being over fourteen years of age, is found on the first day of the week, commonly called Sunday, rioting, hunting, fishing, quarreling, at common labor or engaged in his usual avocation, works of charity and necessity only excepted, shall be fined not less than one dollar nor more than ten dollars; but nothing herein contained shall be construed to affect such as conscientiously observe the seventh day of the week as the Sabbath, trav-

clers, and those engaged in conveying them, families removing, keepers of toll bridges and toll gates, ferrymen acting as such and persons engaged in the publication and distribution of news.

Baseball on Sunday.

SEC. 468. It shall be unlawful for any person or persons to engage in playing any game of baseball, foot-ball, or other game where any fee is charged, or where any reward or prize, or profit, or article of value is depending on the result of such game, on the first day of the week, commonly called Sunday; and every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not exceeding twenty-five dollars.

Houses of Assignation.

SEC. 469. Whoever induces, decoys, procures or compels any female under eighteen years of age, or causes any female over eighteen years of age, against her will, to have sexual intercourse with any person other than himself; or whoever knowingly permits any other person to have sexual intercourse with any female of good repute for chastity, upon premises owned or controlled by him, shall be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than one month nor more than six months.

Houses of Ill-Fame—Associating.

SEC. 470. Whoever, being a male person, frequents or visits a house or houses of ill-fame or of assignation, except as a physician to treat a patient or patients, or associates with women known or reputed as prostitutes, or frequents or visits a gambling house or houses, or is engaged in or about a house of prostitution, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, and shall be imprisoned in the county jail not less than ten days nor more than sixty days.

Prostitute.

SEC. 471. Any female who frequents or lives in a house or houses of ill-fame, or associates with women of bad character for chastity, either in public or at a house which men of bad character frequent or visit, or who commits adultery or fornication for hire, shall be deemed a prostitute; and, on conviction, shall be fined not less than five dollars nor more than fifty dollars, to which may be added imprisonment in the county jail not less than ten days nor more than thirty days.

Stallions—Letting in Public.

SEC. 472. Whoever permits any stallion or jack to run at large at any place, or who shall keep or let to mares or jennets any stal-

lion or jack, within the limits of any city, town or village, or within two hundred yards thereof, except within an enclosure by which the view of the inhabitants of such city, town or village, or vicinity thereof is obstructed, shall be fined three dollars for every day such offense is committed.

Sodomy.

SEC. 473. Whoever commits the abominable and detestable crime against nature with mankind or beast; or whoever entices, allures, instigates or aids any person under the age of twenty-one years to commit masturbation or self-pollution, shall be deemed guilty of sodomy, and, on conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars, to which may be added imprisonment in the state prison not less than two years nor more than fourteen years.

OFFENSES AGAINST PUBLIC JUSTICE.

Perjury.

SEC. 474. Whoever, having taken a lawful oath or affirmation in any matter in which, by law, an oath or affirmation may be required, shall, upon such oath or affirmation, swear or affirm wilfully, corruptly and falsely touching a matter material to the point in question, shall be deemed guilty of perjury, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than twenty-one years, fined not less than fifty dollars nor more than one thousand dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Perjury in Voluntary Affidavit.

SEC. 475. Whoever wilfully, corruptly and falsely, before any officer authorized to administer oaths, under oath or affirmation, voluntarily makes any false certificate, affidavit or statement of any nature, for any purpose, shall be deemed guilty of perjury, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than twenty-one years, fined not less than fifty dollars nor more than one thousand dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Subornation of Perjury.

SEC. 476. Whoever suborns or procures any person to commit perjury, is guilty of subornation of perjury, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than twenty-one years, and fined not less than fifty dollars nor

more than one thousand dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Bribery of Public Officers.

SEC. 477. Whoever corruptly gives, promises or offers to any member, officer, clerk or employe of the general assembly, or of either house thereof, or to any state or other officer, agent or employe of this state, or person holding any office of trust or profit under the laws of this state, or to any officer intrusted with the administration of justice, or prosecuting attorney, either before or after his election, qualification, appointment or employment, any money or valuable thing, or corruptly offers or promises to do any act beneficial to any such person, to influence his action, vote, opinion or judgment in any matter pending or that might legally come before him; and whoever, being a member, officer, clerk or employe of the general assembly, or state or other officer, agent or employe of this state, or person holding any office of trust or profit under the laws of this state, or any officer entrusted with the administration of justice or prosecuting attorney, either before or after his election, qualification, appointment or employment, solicits or accepts any such money, promise or valuable thing, to influence him with respect to his official duty, or to influence his action, vote, opinion or judgment in any matter pending or that might legally come before him, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, fined not exceeding ten thousand dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Bribery of Jurors or Others.

SEC. 478. Whoever, with intent to corrupt a grand or petit juror, or a grand or petit jury, referee, master commissioner, arbitrator, umpire, commissioner to sell lands or to make partition of lands, appraiser of real estate or personal property, county commissioner, mayor of a city, or member of the common council or other officer of any city, or trustee of any incorporated town, trustee of any civil or school township, school city or town, or any inspector, judge or clerk of election, or to influence him or them with respect to the discharge of his or their duty, either before or after he or they are summoned, elected, appointed, qualified or sworn, promises or offers him or them any money or valuable thing; and whoever, either before or after he is summoned, elected, appointed, qualified or sworn as a grand or petit juror, referee, master commissioner, arbitrator, umpire, commissioner to sell lands or to make partition of lands, appraiser of real or personal

property, county commissioner, mayor of a city, or member of the common council or other officer of any city, trustee of any incorporated town, trustee of any civil or school township, school city or town, or inspector, judge or clerk of election, solicits or accepts any money or other valuable thing to influence him with respect to the discharge of his duties as such, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, fined not exceeding one thousand dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Compounding Felonies.

SEC. 479. Whoever, having knowledge of the actual commission of a crime of the grade of felony, takes any money or property of another, or any gratuity or reward, or any engagement or promise therefor, upon any agreement or understanding, express or implied, to compound or conceal such crime, or to abstain from any prosecution therefor, or to withhold any evidence thereof, or do any act to encourage or procure the absence of witnesses or other evidence on the examination or trial of such charge, is guilty of a felony, and, on conviction, shall be punished as follows: First. By imprisonment in the state prison not less than one year nor more than seven years, or in the proper county jail not exceeding one year, where the crime compounded is one punishable either by death or by imprisonment in the state prison for life. Second. By imprisonment in the state prison not less than six months nor more than five years, or in the proper county jail not exceeding six months, where the crime compounded is one punishable by imprisonment in the state prison for any other term than life.

Compounding Misdemeanors.

SEC. 480. Whoever, having knowledge of the actual commission of a crime of the grade of a misdemeanor or violation of a statute for which a pecuniary or other penalty or forfeiture is prescribed, takes any money or property of another, or any gratuity or reward, or any engagement or promise therefor, upon any agreement or understanding, express or implied, to compound or conceal such crime or violation of statute, or to abstain from any prosecution thereof, or to withhold any evidence, or do any act to encourage or procure the absence of witnesses or other evidence on the examination or trial of such charge, on conviction, shall be punished by imprisonment in the proper county jail not exceeding one year, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment.

Compounding Prosecutions.

SEC. 481. Whoever takes any money or property of another, or any gratuity or reward, or any engagement or promise therefor, upon any agreement or understanding, express or implied, to compound, discontinue or delay any prosecution then pending for any crime or violation of statute, or to withhold any evidence in aid thereof, or to do any act to encourage or procure the absence of witnesses or other evidence, on the examination or trial of such charge, on conviction, shall be punished by imprisonment in the proper county jail not exceeding one year, or by fine not exceeding one thousand dollars, or by both such fine and imprisonment.

Concealing Criminals.

SEC. 482. Whoever, not being husband or wife, parent or child, grandparent or grandchild, brother or sister, master or apprentice of any thief or robber, harbors or conceals any such thief or robber, knowing him to be such, shall, on conviction, be imprisoned in the state prison not less than two years nor more than seven years.

False Personation.

SEC. 483. Whoever falsely personates another before any court or judge thereof, or before any justice of the peace, mayor of a city, clerk of any court of record, notary public, or any state, county, township, city or town officer or other person who is authorized either to administer oaths or take the acknowledgment of deeds, powers or warrants of attorney, or other instruments, or [to] grant marriage licenses, with intent to defraud, or who falsely personates or represents another, and, in such assumed character, receives any property intended to be delivered to the party so personated, with intent to convert the same to his own use, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years, fined not exceeding one hundred dollars, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

False Heir—Producing.

SEC. 484. Whoever shall fraudulently produce an infant, falsely pretending it to have been born of parents whose child would be entitled to a share of any personal estate, or to inherit any real estate, with the intent to intercept the inheritance of any such real estate or the distribution of any such personal property from any person lawfully entitled thereto, or to prevent any such property from escheating to the state, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years.

Substituting Child.

SEC. 485. Any person to whom any child shall be confided for nursing, education or any other purpose, who shall, with the intent to deceive any parent or guardian of such child, substitute and produce to such parent or guardian, another child in place of the one so confided, shall, on conviction, be imprisoned in the state prison not less than two nor more than fourteen years.

Extortion.

SEC. 486. Any officer, under the constitution or laws of this state, who, under the color of his office, asks, demands or receives any fee or reward other than is allowed by law, to execute or do his official duty, or taxes, charges, asks, demands or receives any more or greater fees than are allowed by law for such official duty; or any officer who requires any deputy appointed by him to divide or pay back to such officer a part of the legal fees of such deputy; or who fails to perform any duty in the manner and within the time prescribed by law, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, and imprisoned in the county jail not exceeding six months; and any such officer so offending a second or subsequent time, on conviction, shall be imprisoned in the state prison not less than one year nor more than three years, and be disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Judge Practicing Law.

SEC. 487. Whoever, being a judge of any supreme, appellate, circuit, superior or criminal court, directly or indirectly practices law in any of the courts of this state, or gives counsel or advice in relation to any business in any court, or keeps an office for the transaction of legal business or for the purpose of giving counsel or advice in legal matters, shall, on conviction, be fined not less than twenty-five dollars nor more than five hundred dollars.

County Officer Practicing Law.

SEC. 488. Whoever, being the clerk of any of the courts of this state, county auditor, county treasurer, recorder, sheriff, or the deputy of any one of such officers, practices law in any of the courts of this state, shall, on conviction, be fined not less than twenty-five dollars nor more than five hundred dollars.

Officeholder Acting as Notary.

SEC. 489. Whoever, while holding any lucrative office, acts as a notary public; or whoever, being an officer or employe in any bank, corporation or association possessed of banking powers, or of any trust company or building and loan association, acts as a

notary public in the business of such bank, corporation, association, trust company or building and loan association, shall, on conviction, be fined not less than ten dollars nor more than one thousand dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months.

Falsely Attesting Affidavit.

SEC. 490. Whoever, being a notary public or other officer or person authorized to administer oaths, certifies that any person was sworn or affirmed before him to any affidavit or other instrument or writing, when, in fact, such person was not so sworn or affirmed, shall, on conviction, be imprisoned in the state prison not less than one year nor more than three years, and fined not less than ten dollars nor more than one thousand dollars.

Falsely Attesting Acknowledgment.

SEC. 491. Whoever, being a notary public or other officer authorized to take and certify acknowledgments of conveyances, mortgages or other instruments of writing, shall append his signature as such officer when no official seal is required, or who shall append his signature or affix his official seal when such seal is required by law to be affixed to the certificate of acknowledgment of any conveyance, mortgage or other instrument of writing required to be recorded in this state, or which can not be legally recorded therein without acknowledgment and certificate thereof, when at the time of such signing or sealing the grantor, mortgagor or other party executing such deed, mortgage or other instrument had not first acknowledged the execution thereof before such notary public or other officer as aforesaid, shall, on conviction, be imprisoned in the state prison not less than one year nor more than three years, and fined not less than ten dollars nor more than one thousand dollars.

Officer Not Explaining Instrument.

SEC. 492. Whoever, being a notary public or other officer authorized to take the acknowledgment of deeds, mortgages and other instruments of writing, in any case where the party executing such deed, mortgage or other instrument of writing shall sign the same with his or her mark, or where such officer has good cause to believe that the contents and purport of such deed, mortgage or other instrument of writing are not fully known to the party executing the same, neglects or refuses to read and explain fully to such party so executing the same the contents and purport of such deed, mortgage or other instrument of writing before certifying to the acknowledgment thereof, shall, on conviction, be fined not

less than five dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months.

Notary—Acting After Term Expires.

SEC. 493. Whoever, having been appointed a notary public, does or performs any act as a notary public after the expiration of his term of office, knowing that such term of office has expired, shall, on conviction, be fined not less than twenty-five dollars nor more than five hundred dollars.

Justice or Constable—Purchase of Judgment.

SEC. 494. Whoever, being a justice of the peace or constable of any township, shall, directly or indirectly, purchase any judgment or interest therein, on the docket of any justice of such township, shall, on conviction, be fined not less than twenty-five dollars nor more than two hundred dollars.

Capital Criminal—Suffering to Escape.

SEC. 495. Whoever, having lawfully the custody of any person charged with or convicted of any crime the punishment for which is death, shall voluntarily suffer such prisoner to escape, shall, on conviction, be imprisoned in the state prison not less than two years nor more than twenty-one years.

Felon—Suffering to Escape.

SEC. 496. Whoever, having lawfully the custody of any person charged with or convicted of any felony the punishment for which is confinement in the state prison, shall voluntarily suffer such prisoner to escape from his custody, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years.

Prisoner—Aiding to Escape.

SEC. 497. Whoever, not being a person having the lawful custody of any prisoner charged with or convicted of a felony, shall aid in or accomplish the escape of such prisoner, shall, on conviction, be imprisoned in the state prison not less than two years nor more than twenty-one years.

Convict—Aiding to Escape.

SEC. 498. Whoever aids or induces, or attempts to induce, any convict in any prison of this state to escape or attempt to escape therefrom, or who shall convey into such prison anything with intent to facilitate the escape of such convict, shall, on conviction, be imprisoned in the state prison not less than two years nor more than twenty-one years.

Escape from Jail—Aiding.

SEC. 499. Whoever aids or assists a person lawfully confined in any jail, work-house, city prison or lawful place of confinement, to escape therefrom, or aids or assists such person in an attempt to escape therefrom, or whoever shall lie or be in waiting, either within or without the enclosure of any such jail, work-house, city prison or other lawful place of confinement, for the purpose of aiding or assisting any person lawfully confined in any such place to escape therefrom, or whoever shall assist or aid any person to escape from the control and custody of the keeper of any such jail, work-house, city prison or other lawful place of confinement, or who shall convey into such place of confinement anything with intent to facilitate the escape of such prisoner, or other person so lawfully confined, although no escape be actually made, shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars, and be imprisoned in the county jail not less than three months nor more than one year.

Escape of Person Charged with Misdemeanor.

SEC. 500. Whoever, having lawfully the custody of any person charged with or convicted of any misdemeanor, or with the offense of bastardy, shall voluntarily or negligently suffer such prisoner to escape out of his custody, shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars.

Habeas Corpus Writ—Obstructing.

SEC. 501. Whoever, having under his custody or control any person for whose relief a writ of habeas corpus shall have been duly issued, with intent to elude the service of such writ or to avoid the effect thereof, transfers such person to the custody or control of another, or conceals the place of his or her confinement or restraint, or removes him or her without the jurisdiction of the court from which the writ is issued or sought to be issued; and whoever knowingly aids in the commission of any such offense, shall, on conviction, be fined not less than twenty-five dollars nor more than one thousand dollars, to which may be added imprisonment in the county jail not exceeding ninety days.

Legal Process—Obstructing.

SEC. 502. Whoever shall obstruct the execution of any legal process, or forcibly free any person from legal arrest, knowing such person to be under arrest, shall, on conviction, be fined not less than one hundred dollars nor more than ten thousand dollars, to which may be added imprisonment in the county jail not exceeding one year.

Convict—Escape from Prison.

SEC. 503. Whoever, being a convict confined in any prison of this state escapes therefrom, shall, on conviction, be imprisoned in the state prison not exceeding the length of time for which such escaping convict was originally sentenced, to commence from the expiration of the original term of his imprisonment.

Subpoena or Citation—Disobeying.

SEC. 504. Whoever, having been duly served with subpoena or citation legally issued, shall refuse or wilfully fail to obey the same, or shall secrete himself, or leave the place of his residence to avoid being served with a subpoena issued or that he has reason to believe will be issued for him in any cause pending in any court, or in any matter before any legal authority, or, being present before any court or legal authority and called upon to give testimony, shall refuse to take an oath or affirmation, or, being sworn or affirmed, shall refuse to answer any question, required by such court or authority to be answered, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than ninety days. But this section shall not prevent summary proceedings for contempt.

Jurors, et al.—Corrupt Influence.

SEC. 505. Whoever, corruptly, or by force or threats, or threatening letters, endeavors to influence, intimidate or impede any juror, witness or officer in any court of this state, in the discharge of his duty, or by threats or force, obstructs or impedes, or endeavors to obstruct or impede, the due administration of justice therein, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than sixty days.

NEGLIGENCE OF OFFICERS.

Unclean Prisons.

SEC. 506. Whoever, being a sheriff, jailer, or other person having the care and custody of any jail, work-house, prison or other lawful place of confinement, suffers the same to become foul or unclean, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Unclean Institutions—Cruelty.

SEC. 507. Whoever, having charge of any county asylum or other place for the poor or insane provided at the public expense, or any home for orphans, or indigent or dependent children, or

for the keeping of the poor or sick of any county, shall suffer the same to become foul or unclean, so that the health of the inmates thereof may be thereby endangered, or shall cruelly or inhumanly treat any of the inmates thereof, or shall fail to furnish such inmates plenty of good, wholesome food and comfortable clothing shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Official Negligence.

SEC. 508. Any clerk of a circuit court, sheriff, coroner, constable, or other ministerial officer who shall refuse or neglect to perform any duty he is required by law to perform in any criminal case or proceeding, and any officer whose duty it is to execute any warrant legally issued in any criminal case, who shall unnecessarily delay to serve any such warrant which is delivered to him to execute, when it is in his power to serve the same, either alone or by calling assistance, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months.

Refusing to Aid Officer.

SEC. 509. Whoever, when required by any sheriff or his deputy, or by any coroner, constable, or any conservator of the peace, to assist him in the execution of his office or in the service of any process, shall refuse or neglect to render such assistance, without having a valid cause for so refusing or neglecting, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars.

Common Barrator.

SEC. 510. Whoever frequently encourages quarrels or lawsuits among the citizens of this state, shall be deemed a common barrator, and, on conviction, shall be fined not exceeding five hundred dollars, and imprisoned in the county jail not exceeding six months.

Usurpation of Office.

SEC. 511. Whoever officiates in any place of authority without being legally authorized is guilty of usurpation, and, on conviction, shall be fined not less than ten dollars nor more than five hundred dollars.

Officer Acting Without Qualifying.

SEC. 512. Whoever, having been elected or appointed to any office, or being the deputy of any officer so elected or appointed, shall perform any of the duties of such office without having taken

and subscribed the oath prescribed by law, or before having given and filed the bond required of him, and in the manner prescribed by law, shall, on conviction, be fined not less than ten dollars nor more than one thousand dollars.

Intoxicated Officer.

SEC. 513. Whoever, holding an office under the constitution or laws of this state, becomes or is intoxicated during the business hours of his office, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not more than ten days; and for a second offense he may be deprived of his office by the judgment of the proper circuit court.

County Office—Proper Place.

SEC. 514. Any auditor, treasurer, clerk of the circuit court, or recorder of a county, who shall, without the consent of the board of commissioners of the county, keep his office, and the books and papers belonging thereto, in any building other than that provided by such board for that purpose, shall, on conviction, be fined not exceeding one thousand dollars.

Officer Discounting Orders.

SEC. 515. Any auditor, treasurer, clerk of the circuit court, sheriff or member of the board of commissioners of a county, who shall purchase or receive in payment any demand against such county for less than the face value of such demand, shall be fined not less than ten dollars nor more than five hundred dollars.

Extortion from Pensioner.

SEC. 516. Whoever, having authority to administer oaths, shall charge or receive from any discharged soldier or seaman, or the widow, orphan, child or legal representative of a deceased soldier or seaman more than fifteen cents for administering any oath, or giving any official certificate for the procuring of any pension, bounty, prize-money or back pay, shall, on conviction, be fined not less than five dollars nor more than fifty dollars.

Officers Interested in Public Contracts.

SEC. 517. Any state officer, county commissioner, township or town trustee, mayor or a common councilman of any city, school trustee of any town or city, or their appointees or agents, or any person holding any appointive power, or any person holding a lucrative office under the constitution or laws of this state, who shall, during the time he may occupy such office or hold such appointing power and discharge the duties thereof, be interested, directly or indirectly, in any contract for the construction of any

state house, court house, school house, bridge, public building or work of any kind, erected or built for the use of the state, or any county, township, town or city in the state, in which he exercises any official jurisdiction, or who shall bargain for or receive any percentage, drawback, premium, or profits or money whatever, on any contract, or for the letting of any contract, or making any appointment wherein the state, or any county, township, town or city is concerned, on conviction, shall be fined not less than three hundred dollars nor more than five thousand dollars, and be imprisoned in the state prison not less than two years nor more than fourteen years, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Township Trustee—Payment of Claims.

SEC. 518. If any township trustee shall unlawfully refuse to pay any just claim or demand against any fund of such township, when the money belonging to such fund is in his hands, he shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than ten dollars nor more than fifty dollars.

Bribery of Officer.

SEC. 519. Any person who shall pay or agree to pay any money, or deliver anything of value to any state officer, county commissioner, township or town trustee, mayor or common councilman of any city, school trustee of any city or town, or to any other person holding a lucrative office, or appointment or agency under the constitution or laws of this state, for the purpose of procuring any contract for the construction of any state house, court house, school house, bridge, or other public building, or the performance of any work or furnishing of any material for the use of the state, or of any county, township, town or city in this state, over which such person has any official jurisdiction, or who, having any such contract, shall pay or agree to pay to any of the officers or persons above named any money, percentage, reward, drawback, premium or profits on such contract, on conviction, shall be fined not less than three hundred dollars nor more than five thousand dollars, and be imprisoned in the state prison not less than two years nor more than fourteen years, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

State Auditor—Illegal Warrant.

SEC. 520. If the auditor of state shall draw any warrant upon the treasurer of state, unless there be money in the treasury belonging to the particular fund upon which such order is drawn to pay the same, and in conformity to appropriations made by law,

he shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars, and be imprisoned in the county jail not less than one month nor more than six months.

State Officer Not Accounting.

SEC. 521. If the secretary, auditor or treasurer of state, or any deputy or other person in their employ, or in the employ of either of them, shall receive any fee, bonus, gratuity or perquisite of any kind, on account of any public money or on account of any public or official duty, and shall fail or neglect to report and to pay the same into the treasury of state, in the manner and at the time required by law, he or they shall, on conviction, be fined in a sum equal to double the value of the amount so received, and be imprisoned in the county jail not less than one month nor more than one year.

Obstructing Examination of State Treasury.

SEC. 522. If any officer of the state, or any other person, shall hinder or attempt to hinder, obstruct or attempt to obstruct, any inspection or examination of the state treasury by persons authorized to make such inspection and examination, he shall, on conviction, be fined not less than twenty dollars nor more than one hundred dollars, and be imprisoned in the county jail for three months.

State Treasurer—False Report.

SEC. 523. If the treasurer of state or any other state officer shall wilfully or fraudulently make any untrue or false statement in regard to the amount of money on hand in the treasury of the State of Indiana, when a statement is required of him by law, he shall, on conviction, be imprisoned in the state prison not less than one year nor more than fourteen years.

State Treasurer—Illegal Paying.

SEC. 524. If the treasurer of state or any deputy or person in his employ shall pay out or receive any public money in any other manner than as prescribed by law, he shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars, and be imprisoned in the county jail for one year.

State Treasurer—False Voucher.

SEC. 525. If the treasurer of state shall accept, receive or seek to be allowed in his favor any warrant or voucher from any creditor of this state, without having paid to such creditor, in such funds as such treasurer may have received for disbursement, or such other funds as he may be authorized to take in exchange, the

full amount specified in such warrant or voucher, he shall, on conviction, be fined in a sum equal to the difference between the amount paid and the amount of the warrant or voucher, and be imprisoned in the county jail not less than one month nor more than one year.

State Treasurer—Defalcation.

SEC. 526. If the treasurer of state, having money belonging to any public fund in his hands, shall refuse to pay any warrant drawn on such fund, or if any such officer, at the expiration of his term of office, shall fail or refuse to pay or deliver over to the person or persons authorized to receive the same, any money or other property in his hands as such treasurer, he shall, on conviction, be imprisoned in the state prison not less than one year nor more than twenty-one years, and shall be fined in a sum equal to the value of the money or property so withheld by him.

Common Council—Breaking Quorum.

SEC. 527. Whenever it shall happen that a quorum shall not be present or voting in the common council of any city of the State of Indiana, at any stated or special meeting thereof, by reason of the wilful or intentional absence of any member or members of the same, or of his or their refusing to vote, or to answer to their names on any vote or roll-call, any member of such common council so refusing to vote or to be present or to answer to his name, with the intent to defeat, delay or obstruct legislation or legislative action, or the business of such common council, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than one hundred dollars nor more than one thousand dollars.

General Assembly—Breaking Quorum.

SEC. 528. Whenever it shall happen that a quorum shall not be present or voting in the senate or the house of representatives of the State of Indiana, by reason of the wilful or intentional absence of any member of such senate or house, or of their refusing to vote or to answer to their names on any vote or roll-call, any such member of the general assembly so wilfully refusing to vote, to be present or to answer to his name, with the intent to defeat, delay or obstruct legislation or legislative action, shall, on conviction, be fined one thousand dollars. The Marion criminal court shall have original jurisdiction of all offenses arising under this section.

Neglect of Roads.

SEC. 529. If any person [who] has the official supervision of roads in any road district, fail to keep the ways and bridges in his road district in as good repair as the available labor or other means

of such district will enable him to do, or fail to discharge any other duty required of him by law, he shall, on conviction, be fined not less than five dollars nor more than one hundred dollars.

County Recorder—Deed Without Transfer.

SEC. 530. If any county recorder shall record any deed of conveyance without having the certificate of the auditor showing the entry for taxation indorsed thereon, as required by law, he shall, on conviction, be fined three dollars.

Clerk Bureau of Printing—Misfeasance.

SEC. 531. If the clerk in charge of the bureau of public printing, binding and stationery shall receive any percentage, fee, reward or gratuity for or on account of any favor shown in the discharge of his official duties, or shall falsely and corruptly certify any bill or allowance on account of the public printing and binding, he shall, on conviction, be confined in the state prison for any term not less than six months nor more than three years.

Inspector of Grain—Misfeasance.

SEC. 532. Any duly authorized inspector of grain who shall be guilty of neglect of duty, or who shall knowingly or carelessly inspect or grade any grain improperly, or who shall accept any money or other consideration, directly or indirectly, for any neglect of duty or the improper performance of any duty as such inspector, or any person who shall improperly influence any inspector of grain in the performance of his duties as such inspector, shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars, or shall be imprisoned in the county jail not less than three months nor more than one year, and be fined not exceeding one hundred dollars.

Teachers' License—Sale or Purchase, Etc.

SEC. 533. Whoever shall trade, sell, barter or give away, or offer to sell, trade, barter or give away to applicants for teachers' license, or to any other person; or whoever shall buy, purchase, barter, or trade for, or accept, any of the questions [prepared] by the state board of education, to be used by county school superintendents in the examination of teachers, [or] in any way dispose of or accept any of such questions, contrary to the rules prescribed by said state board of education, shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars.

OFFENSES AGAINST PUBLIC HEALTH.

Public Nuisance.

SEC. 534. Every person who shall erect, or continue and maintain any public nuisance, to the injury of any part of the citizens of this state, shall, on conviction, be fined not exceeding one hundred dollars.

Public Nuisance—What Constitutes.

SEC. 535. Whoever erects, continues, uses or maintains any building, structure or place for the exercise of any trade, employment or business, or for the keeping or feeding of any animal, animals or fowls, which, by occasioning noxious exhalations or noissome or offensive smells, becomes injurious to the health, comfort or property of individuals or the public; or whoever causes or suffers any offal, filth or noisome substance to be collected or to remain in any place to the damage, prejudice, or discomfort of others or the public; or whoever obstructs or impedes, without legal authority, the passage of any navigable river, harbor or collection of waters, or unlawfully diverts any stream of water from its natural course or state, to the injury of others; or whoever obstructs or encumbers by fences, buildings, structures or otherwise, any public grounds, or erects, continues or maintains any obstruction to the full use of property, so as to injure the property of another or essentially to interfere with the comfortable enjoyment of life, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars: *Provided*, That nothing in this section shall prevent the board of trustees of towns and the common councils of cities from enacting and enforcing such ordinances within their respective corporate limits as they may deem necessary to protect the public health and comfort.

Stagnant Water—Creating.

SEC. 536. Whoever, without authority of law, builds, erects, continues or keeps up any dam or other obstruction to any stream of water, and thereby produces stagnant water which is injurious to the public health or safety, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars.

Dead Animals.

SEC. 537. Whoever puts the carcass of any dead animal, or the offal from any slaughter-house or butcher's establishment, packing-house or fish-house, or any spoiled meat or spoiled fish, or any putrid animal substance, or the contents of any privy vault, upon or into any river, pond, canal, lake, public ground, market place, common, field, meadow, lot, road, street or alley, and whoever,

being the owner or occupant of any such place, knowingly permits any such thing to remain therein to the annoyance or injury of any of the citizens of this state, or neglects or refuses to remove or abate the nuisance occasioned thereby, within twenty-four hours after knowledge of the existence of such nuisance upon any of the above described premises owned or occupied by him, or, after notice thereof, in writing, from any health officer of the city or county, or the trustee of the township in which such nuisance exists, shall, on conviction, be fined not less than one dollar nor more than one hundred dollars.

Selling Unwholesome Provisions.

SEC. 538. Whoever knowingly sells, or has in his possession with intent to sell, or exposes for sale, any kind of diseased, corrupted or unwholesome provisions, whether for meat or drink, or whoever knowingly sells or exposes for sale any article or substance intended to be eaten or drunk, and shall, by label or in any other way, represent it to be other than what it is; or whoever kills, for the purpose of sale, any calf less than four weeks old, or sells, or has in his possesion with intent to sell, the meat of any calf which he knows to have been killed when less than four weeks old, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months.

Adulterated Drug or Food—Standards.

SEC. 539. No person shall, within this state, manufacture for sale, offer for sale, or sell any drug or article of food which is adulterated. The term drug shall be deemed to include all medicines for internal or external use, antiseptics, disinfectants and cosmetics. The term food shall be deemed to include confectionery, condiments and all articles used by man for food or drink. An article shall be deemed to be adulterated within the meaning of this section:

A. In case of drugs. (1) If, when sold under or by a name recognized by the United States Pharmacopoeia, it differs from the standard of strength, quality or purity laid down therein, unless the order call for an article inferior to such standard, or unless such difference be made known or so appear to the purchaser at the time of such sale. (2) If, when sold under or by a name not recognized in the United States Pharmacopoeia, but which is found in some other pharmacopoeia, or other standard work on materia medica, it differ materially from the standard of strength, quality or purity laid down in such work. (3) If its strength or purity fall below the professed standard under which it is sold.

B. In case of food. (1) If any substance or substances have been mixed with it, so as to reduce, or lower, or injuriously affect its quality or strength. (2) If any inferior or cheaper substance or substances have been substituted wholly or in part for it. (3) If any valuable constituent have been wholly or in part abstracted from it. (4) If it be an imitation of or sold under the name of another article. (5) If it consist wholly or in part of a diseased, corrupt, decomposed or rotten animal or vegetable substance, whether manufactured or not, or, in the case of milk, if it be the product of a diseased animal. (6) If it be colored, coated, polished or powdered, whereby damage is concealed, or if it be made to appear better or of greater value than it really is. (7) If it contain any added poisonous ingredient, or any ingredient which may render it injurious to the health of the person consuming it.

The provisions of this section shall not apply to mixtures or compounds recognized as ordinary articles of food or drink: *Provided*, That such mixtures or compounds be not injurious to health, and be distinctly labeled as mixtures or compounds, and no prosecutions shall at any time be maintained hereunder concerning any drug, the standard of strength of purity whereof has been raised since the issue of the last edition of the United States Pharmacopoeia, unless and until such change of standard shall have been published throughout the state. It shall be the duty of the state board of health to enforce the laws of the state governing food and drug adulteration, including the provisions of this section; and the state health officer shall be state inspector of foods and drugs. The state board of health shall take cognizance of the interests of the public health relating to the sale of drugs and foods and the adulteration of the same, and shall make all necessary investigation and inquiries in reference thereto; and for these purposes the state, county, city and town health officers shall be food and drug inspectors, subordinate to the state board of health. The state board of health shall adopt such measures as may be necessary to facilitate the enforcement of the provisions of this section, and shall prepare rules declaring the proper methods of collecting and examining drugs and articles of food. Every person offering or exposing for sale or delivery to a purchaser any drug or article of food included in the provisions of this section, shall furnish to any analyst or other officer or agent named herein or appointed hereunder, who shall apply to him for the purpose and shall tender to him the value of the same, a sample sufficient for the purpose of the analysis of any such drug or article of food which is in his possession. Whoever hinders, obstructs or in any way interferes with any inspector, analyst or other officer named herein or appointed hereunder, in the performance of his duties, and whoever violates any of the provisions of this section, shall,

on conviction, be fined not exceeding one hundred dollars. Whoever fraudulently adulterates, for the purpose of sale, any bread or other substance intended for food with any substance injurious to health, or knowingly barters, gives away, sells or has in his possession with intent to barter, give away, or sell any substance injurious to health, shall, on conviction, be fined not exceeding one hundred dollars, and the article so adulterated shall be forfeited and destroyed under the direction of the court. Whoever adulterates, for the purpose of sale, any liquor used or intended for drink, and whoever knowingly sells such liquor so adulterated, shall, on conviction, be fined not less than one hundred dollars nor more than five hundred dollars, and the article so adulterated shall be forfeited and destroyed under the direction of the court.

Candy.

SEC. 540. No person shall, by himself, servant or agent, nor as the servant or agent of any other person, firm or corporation, manufacture for sale or knowingly sell or offer for sale any candy adulterated by the admixture of terra alba, barytes, talc or any other mineral substance, or by poisonous colors or flavors or by other ingredients deleterious or detrimental to health. Any person or corporation violating any of the provisions of this section shall, on conviction, be fined not less than fifty dollars nor more than one hundred dollars; and the candy so adulterated shall be confiscated and destroyed under the direction of the court.

Vinegar—Adulterations.

SEC. 542. Every person who manufactures for sale, or offers or exposes for sale, as cider vinegar any vinegar not the product of pure apple juice, or into which any foreign substance, ingredient, drug or acid has been introduced, shall, for each such offense, on conviction, be fined not less than twenty-five dollars nor more than one hundred dollars.

Injurious Ingredients.

SEC. 543. Every person who manufactures for sale, sells, or offers or exposes for sale, any vinegar containing any preparation of lead, copper, sulphuric acid or other ingredient injurious to health, shall, for each such offense, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Selling or Having in Possession.

SEC. 544. No person shall, by himself, his servant or agent, or as the servant or agent of any other person, sell, exchange, deliver or have in his custody or possession with intent to sell or exchange or expose or offer for sale or exchange, any adulterated

vinegar, nor shall he label, brand or sell as cider vinegar any vinegar not the product of pure apple juice; and any person so offending shall, on conviction, for each such offense, be fined not less than ten dollars nor more than one hundred dollars.

Coloring—Brand of Maker.

SEC. 545. All vinegars shall be without artificial coloring matter, and shall have an acidity equivalent to the presence of not less than four per centum, by weight, of absolute acetic acid, and, in case of cider vinegar, shall in addition contain not less than two per centum, by weight, of cider vinegar solids upon full evaporation over boiling water; and if any vinegar contain any artificial coloring matter or less than the above named amount of acidity, or, in the case of cider vinegar, if it contain less than the above named amount of acidity and of cider solids, it shall be deemed to be adulterated. No vinegar shall be mixed with cider or fruit vinegars, or in any manner changed to imitate cider or fruit vinegar. Every person making or manufacturing cider vinegar who is not a domestic manufacturer for his own use thereof, shall brand on each head of the cask, barrel or keg containing such vinegar the name and residence of such manufacturer, the date when the same was manufactured and the words "cider vinegar." No vinegar shall be branded "fruit vinegar" unless the same be made wholly from apples, grapes or other fruit. Whoever violates any of the provisions of this section shall, on conviction, be fined for each such offense not less than ten dollars.

Selling Diseased Animal.

SEC. 546. Whoever kills, for the purpose of sale, any sick, diseased or injured animal, or sells or has in his possession with the intent to sell, the meat of any such sick or diseased or injured animal, shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not more than six months.

Selling Unwholesome Milk.

SEC. 547. Whoever shall knowingly sell to any person or persons, or sell, or deliver or bring to be manufactured to any cheese or butter manufactory in this state, any milk diluted with water, or in any way adulterated, or milk from which any cream has been taken, or milk commonly known as "skimmed milk," or shall keep back any of the milk known as "strippings," with intent to defraud, or shall knowingly sell milk, the product of a sick or diseased or injured animal or animals, or any milk produced from any cow fed upon the refuse of any distillery or brewery, or upon any

substance deleterious to the quality of the milk, or shall knowingly use any poisonous or any deleterious material in the manufacture of any cheese or butter, or shall knowingly sell or offer to sell any cheese or butter in the manufacture of which any poisonous or deleterious substance has been used, shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars.

Use of Adulterants—Formaldehyde.

SEC. 548. It shall be unlawful for any person, firm or corporation to sell, or to have in his or its possession for sale, any article of food or food product intended for the use of man, or any compound, substance, preparation or material used as such food or intended to be used as such food as [or] food product, or used or intended to be used as an ingredient of any such food or food product, or used or intended to be used in the preparation of any such food or food product, if any such article, compound, substance, preparation or material contain any arsenic, formaldehyde or antiseptic injurious to health. Any person, firm or corporation violating any of the provisions of this section shall, on conviction, be fined not exceeding one hundred dollars for each offense.

Food for Animals—Adulterating.

SEC. 549. Whoever manufactures for sale, or offers or exposes for sale, or sells, as bran, shipstuff, shorts, offal or mill-feed manufactured out of wheat, intended for the use of animals, any bran, shipstuff, shorts, offal or mill-feed which is adulterated with any substance not a legitimate part of pure bran, shipstuff, shorts, offal or mill-feed, shall, on conviction, be fined not less than twenty dollars nor more than one hundred dollars.

Native Wines—Adulterating.

SEC. 550. Whoever adulterates any wine or juice made or expressed from grapes, by mixing therewith any drugs, chemicals, cider, whisky or other liquor, and sells, or offers to sell, any such adulterated wine or grape-juice, knowing the same to be adulterated, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Liquors—Adulterating.

SEC. 551. Whoever adulterates any spirituous, malt or other intoxicating liquor by the admixture of any deleterious substance therewith, and knowingly sells, or offers for sale, any such liquors which have been so adulterated, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Liquors—Making or Selling Poisonous.

SEC. 552. Whoever uses any poison in the manufacture or preparation of any intoxicating liquor, or knowingly sells, or offers for sale, in any quantity, any intoxicating liquor so manufactured or prepared, shall, on conviction, be imprisoned in the state prison not less than one year nor more than seven years, and fined not exceeding five hundred dollars.

Befouling Water.

SEC. 553. Whoever maliciously or mischievously puts any dead animal, carcass or part thereof, or any other putrid, nauseous, noisome or offensive substance, into, or in any manner befouls, any well, cistern, spring, brook, canal or stream of running water, or any reservoir of water works, of which any use is, or may be made for domestic purposes, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than sixty days.

OFFENSES AGAINST PUBLIC POLICY.

Raffling.

SEC. 554. Whoever sets up or proposes any money, goods, chattels or thing in action, to be raffled for, or to be distributed by lot or chance to any person who shall have paid or contracted to pay any valuable consideration for the chance of obtaining such money, goods or things in action, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Lottery—Gift Enterprise.

SEC. 555. Whoever sells a lottery ticket or tickets, or a share or shares in any lottery scheme or gift enterprise, or acts as agent for any lottery scheme or gift enterprise, or aids or abets any person or persons to engage in the same, or transmits money by mail or express, or otherwise transmits the same to any lottery scheme or gift enterprise for the division of property, to be determined by chance, or makes or draws any lottery scheme or gift enterprise for a division of property not authorized by law, or who knowingly permits any building, tenement, wharf boat or other water craft owned, leased or controlled by him, to be used and occupied for any of the purposes above named, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars.

Lottery—Advertising.

SEC. 556. Whoever writes, prints, advertises or publishes in any way an account of any lottery, gift enterprise or scheme of chance of any kind or description, by whatever name, style or title

the same may be denominated or known, stating when or where the same is to be drawn, what the prizes therein or any of them are, or the price of a ticket, or showing therein where any ticket may be obtained, or in any way giving publicity to such lottery, gift enterprise or scheme of chance, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars.

Keeping Gaming House.

SEC. 557. Whoever keeps a building, room, arbor, garden, booth, shed, tenement or canal boat, wharf boat or other water craft, to be used or occupied for gaming, or knowingly permits the same to be used or occupied for gaming, or whoever, being the owner of any building, room, arbor, garden, booth, shed, tenement or canal boat, wharf boat or other water craft, rents the same to be used or occupied for gaming, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail or workhouse not less than ten days nor more than six months.

Gaming on Fair Grounds.

SEC. 558. It shall be unlawful for any officer or officers, or any manager, director or trustee of any county fair, agricultural society or joint stock association organized under the laws of this state, to rent, lease, let or donate any part of the premises or grounds, or any booth, stall or tent owned, used, leased or occupied by any such fair society, association or stock company, to any person, persons, company or society, to be used for the purpose of carrying on any game of chance or skill, or any scheme, lottery or drawing, with dice, cards, balls or wheels, or any other device for the purpose of wagering money or any thing of value, or upon the result of which any money or other thing of value shall be wagered. Any such officer or officers who shall violate any of the provisions of this section, shall, on conviction, be fined not less than twenty-five dollars nor more than one hundred dollars.

Inducing Minor to Gamble.

SEC. 559. Whoever, being an adult, by any device or pretense, entices any person under the age of twenty-one years, knowing such person to be a minor, to engage in any game whatever for money or property of any value, or plays or bets at or upon any game or wager, or upon the result of any game or election, with a minor, knowing him to be such, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not less than thirty days nor more than one year.

Gaming.

SEC. 560. Whoever, by playing or betting at or upon any game or wager, or upon the result of any game or horse-race, or trial of speed between men or animals, either loses or wins any article of value, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than three months.

Betting—Pool Selling.

SEC. 561. Whoever makes any bet or wager, or sells or purchases any pools on the result of any election held under the laws of this state, or upon the result of any state election, or upon the election of any person to any office, post or situation, or upon the election of president or vice-president of the United States, or of senators or representatives in congress, or of any elector of president or vice-president of the United States, or sells or purchases any pools on the result of any horse race, or trial of speed between men or animals, or of any game, shall, upon conviction, be fined not less than five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than three months.

Bunko-Steering.

SEC. 562. Whoever allures, entices or persuades another to any place upon any pretense, and then and there, by fraud or duress, induces or compels such person to lose, advance or loan money, to part with anything of value, or to execute his check, note, or other obligation either for money or for anything of value; or whoever, in like manner, allures, entices or persuades another to any place and then and there induces or compels him to part with anything of value by means of any trick, device or artifice, or upon any game or wager, is guilty of bunko-steering, and, on conviction, shall be imprisoned in the state prison not less than two years nor more than fourteen years; and all persons present at such place at such time, engaged therein, shall be prosecuted, tried and punished for such offense as principals.

Keeping Room for Pool Selling.

SEC. 563. Any person who shall keep any room or building or any portion of any room or building, or occupy any place or public or private grounds anywhere within the state with apparatus, books or other device for the purpose of recording or registering bets or wagers or of selling pools, and any person who shall record or register bets or wagers or sell pools upon the result of any trial or contest of skill, speed, or power of endurance of man or beast,

or, being the owner, lessee or occupant of any such rooms, building, part or portion thereof, shall knowingly permit the same to be used or occupied for any of the purposes aforesaid, or shall therein keep, exhibit or employ any device or apparatus for the purpose of registering or recording such bets or wagers or for the selling of such pools, or shall become the custodian or depository for hire or reward of any money, property or other thing of value staked, wagered or pledged, as aforesaid, upon any such results, shall, on conviction, be fined not less than five dollars nor more than five hundred dollars, or imprisoned in the county jail for not less than ten days nor more than six months, or both.

Common Gambler.

SEC. 564. Whoever, for the purpose of gaming with cards or otherwise, travels about from place to place, or frequents any place where gambling is permitted, or engages in gambling for a livelihood, is a common gambler, and, on conviction, shall be fined not less than five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail, or workhouse not less than ten days nor more than three months.

Keeping Devices for Gaming.

SEC. 565. Whoever keeps or exhibits for gain, or to win or gain money or other property, any gaming table, Jenny Lind table, roulette, shuffle board, faro or keno bank, nine-pin or ten-pin alley, wheel of fortune, or any gambling apparatus, device, table or machine of any kind or description, under any denomination or name whatever, or keeps or exhibits any billiard table, bagatelle table, pigeon-hole table or pool table, for the purpose of betting or gaming, or allows the same to be used for any such purpose, shall, on conviction, be fined not less than twenty-five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail or workhouse not less than thirty days nor more than six months.

Allowing Minors to Play.

SEC. 566. If any person owning or having the care, management or control of any billiard table, pool table, or any kind of gaming table, bagatelle, or pigeon-hole table, shall allow, suffer or permit any minor to play billiards, bagatelle, pool or any other game at or upon such table or tables, he shall, on conviction, for each game so allowed, suffered or permitted to be played, be fined not less than five dollars nor more than fifty dollars, to which may be added imprisonment in the county jail or workhouse not less than ten days nor more than six months.

Allowing Minors in Billiard Room, Etc.

SEC. 567. If any person owning or having the care, management or control of any billiard table or tables, pool table or any kind of gaming table, bagatelle table or pigeon-hole table kept in any saloon, hotel or other public place, shall allow, suffer or permit minors to congregate at, in or about such place where such billiard table or tables, pool or any kind of gaming table, bagatelle table or pigeon-hole table may be kept, he shall, on conviction, for each offense be fined not less than five dollars nor more than fifty dollars, to which may be added imprisonment in the county jail or workhouse not less than ten days nor more than six months.

Private Houses Excepted.

SEC. 568. The provisions of the two foregoing sections shall not apply in any case where a billiard table, pool table, bagatelle table or pigeon-hole table, may be kept or used in a private family.

Tobacco—Furnishing to Minors.

SEC. 569. It shall be unlawful for any person or persons to give, barter or sell, either directly or indirectly, to any child or children under sixteen years any tobacco or preparation of tobacco, to be chewed or smoked by such child or children, or to give, barter or sell the same to any person whomsoever, with knowledge that it is to be chewed or smoked by any child under the age aforesaid, or to persuade, advise, counsel or compel any child under said age to chew or smoke tobacco. Any person who violates any of the provisions of this section shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, and be imprisoned in the county jail or workhouse not less than ten days nor more than thirty days.

Cigarettes—Furnishing to Minors.

SEC. 570. It shall be unlawful for any corporation, company, firm or person to sell, barter, furnish, procure for, or give away, directly or indirectly, to any minor any cigarette, cigarette wrapper or any substitute for either, or to persuade, advise, counsel or compel any minor to smoke any cigarette. Any such corporation, company, firm or person violating any of the provisions of this section shall, for the first offense, on conviction, be fined not less than ten dollars nor more than fifty dollars; and, for a second or any subsequent offense, such corporation, company, firm or person shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail or workhouse for any period not exceeding sixty days.

Special Peace Officers—Residence.

SEC. 571. No sheriff or other person authorized by law to appoint special deputies, marshals or policemen to preserve the public peace shall hereafter appoint as such special deputies, marshals or policemen any persons who shall not have resided continuously in this state at least one year, and in the county where such appointment is made at least six months, prior to the date of such appointment; and no person, company, association or corporation shall bring into this state any person or association of persons for the purpose of discharging the duties devolving upon sheriffs and other peace officers in the protection of life and property and the punishment of crime; nor shall any person, without due authority, exercise or attempt to exercise the functions of, or hold himself out to any one, or act or attempt to act as, a deputy sheriff, marshal, policeman, constable or other peace officer. Any person who shall violate any of the provisions of this section shall, on conviction, be imprisoned in the state prison not more than one year and be fined in any sum not exceeding five hundred dollars.

Found Drunk in Public.

SEC. 572. Whoever is found in any public place in a state of intoxication, shall, on conviction, be fined not exceeding five dollars; and, on a second conviction for such offense, he shall be fined not more than twenty-five dollars; and on a third conviction for such offense he shall be fined not more than one hundred dollars, and may be imprisoned in the county jail or workhouse not less than five days nor more than thirty days, and be disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Liquor—Selling to Intoxicated Person.

SEC. 573. Whoever sells, barters or gives away any spirituous, vinous, malt or other intoxicating liquor to any person at the time in a state of intoxication, knowing him to be in a state of intoxication, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail or workhouse not less than thirty days nor more than one year, and such person may be disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Liquor—Selling to Habitual Drunkard.

SEC. 574. Whoever, directly or indirectly, sells, barters or gives away any spirituous, vinous, malt or other intoxicating liquor to any person who is in the habit of becoming intoxicated, after notice shall have been given to him, in writing, by any citizen of

the township or ward wherein such person resides, that such person is in the habit of becoming intoxicated, shall, on conviction, be fined not less than fifty dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail or workhouse not less than thirty days nor more than one year, and such person may be disfranchised and rendered incapable of holding any office of trust or profit for any determinate period.

Liquor—Selling to Minor.

SEC. 575. Whoever, directly or indirectly, sells, barters or gives away any spirituous, vinous, malt or other intoxicating liquors to any person under the age of twenty-one years, either for his own use or for the use of any other person whomsoever, shall, on conviction, be fined not less than twenty dollars nor more than one hundred dollars.

Liquor—Misrepresenting Age to Obtain.

SEC. 576. Whoever, being over the age of fourteen years and under the age of twenty-one years, shall misrepresent his age, and state that he is over twenty-one years of age, in order to purchase or procure spirituous, vinous, malt or other intoxicating liquors, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Liquor—Furnishing to Prisoner.

SEC. 577. Whoever furnishes to a person confined in any jail, workhouse or other lawful place of confinement, any spirituous, vinous, malt or other intoxicating liquor, or, having charge of a jail, workhouse or other lawful place of confinement, knowingly permits a prisoner confined therein to receive any such liquor, unless the same be prescribed by a physician as medicine for such prisoner, shall, on conviction, be fined not less than twenty dollars nor more than one hundred dollars.

Liquor—Keeping Disorderly Shop.

SEC. 578. Whoever keeps a place where intoxicating liquors are sold, bartered or given away, or suffered to be drunk in a disorderly manner, to the annoyance or injury of any part of the citizens of this state, shall, on conviction, be fined for every day the same is so kept not less than ten dollars nor more than one hundred dollars.

Liquor—Selling on Sunday, Holiday, Etc.

SEC. 579. Whoever shall sell, barter or give away, to be drunk as a beverage, any spirituous, vinous, malt, or other intoxicating liquors, upon Sunday, the fourth of July, the first day of January, the twenty-fifth day of December, commonly called

christmas, thanksgiving day as designated by proclamation of the governor of this state, or the president of the United States, or any legal holiday, or upon the day of any state, county, township, primary or municipal election in the township, town or city where the same may be holden, or between the hours of eleven o'clock p. m. and five o'clock a. m., shall, on conviction, be fined not less than ten dollars nor more than fifty dollars, to which may be added imprisonment in the county jail or workhouse not less than ten days nor more than sixty days.

Liquor—Druggist Selling on Sunday, Etc.

SEC. 580. It shall be unlawful for any druggist or druggist's clerk to sell, barter or give away any spirituous, vinous, malt or other intoxicating liquor on Sunday, or upon the fourth of July, the first day of January, the twenty-fifth day of December, commonly called christmas, thanksgiving day, or any legal holiday, or upon the day of any state, county, township, primary or municipal election in the township, town or city where the same may be holden, or between the hours of eleven o'clock p. m. and five o'clock a. m. of any day, unless the person, to whom the same is sold, bartered or given, shall have first procured a written prescription therefor from some regular practicing physician of the county where the same is sold, bartered or given away. And any person so offending shall, on conviction, be fined not less than ten dollars nor more than fifty dollars, to which may be added imprisonment in the county jail or workhouse not less than ten days nor more than sixty days.

Opium, Etc.—Druggist Selling.

SEC. 581. It shall be unlawful for any druggist or druggist's clerk to sell, barter, trade or give any opium, morphine or cocaine to any person addicted to the habitual use of opium, morphine or cocaine, unless such person secure a written prescription therefor from a licensed physician. Any person violating any provision of this section shall, on conviction, be fined for each separate offense in any sum not less than ten dollars nor more than fifty dollars.

Trading Near Camp-Meeting, Etc.

SEC. 582. Whoever sells or exposes for sale, gives, barters or in any way disposes of any spirituous, vinous, malt or other intoxicating liquor, or any article of traffic whatever, or shall erect, bring, keep, continue or maintain any booth, tent, wagon, shed, huckster shop or other place, for the sale of spirituous, vinous, malt or other intoxicating liquor, or any other article whatever, or, being the proprietor, owner or occupant of any real property, shall lease or permit the same to be occupied for any such purpose, at any

place within one mile from the place where any religious society or assemblage of people is collected or collecting together for religious worship; or where any agricultural fair or exhibition, or picnic is held; or where, in any cemetery or other place, on the 30th day of May, commonly called memorial day, any public exercises are being or will be held in commemoration of the soldiers or sailors buried in such cemetery; or where such soldiers' and sailors' graves are being or about to be decorated by the public or any portion thereof; or where any soldiers' picnic or reunion is being held, shall, on conviction, be fined not less than ten dollars nor more than fifty dollars, and be imprisoned in the county jail not exceeding ten days. But this section shall not be construed to include such persons as may carry on their regular business at their usual places of transacting the same, nor such persons as may own the realty within one mile of such place above named, who shall desire to carry on, in their own persons, the business of providing food for the persons or the stock of those attending the places so named, nor such persons as may have the permission of those having charge of any such meeting or exhibition to establish places for the purpose of furnishing food for those attending the same, for horses, cattle or other stock, and who are observing the regulations of such society, assemblage, fair or exhibition and the laws of the state.

Saloon in One Mile of Soldiers' Home.

SEC. 583. It shall be unlawful for any company, corporation, firm or person, directly or indirectly, to conduct or keep any saloon, or other place where intoxicating liquors are sold, or to sell or give away any such intoxicating liquors within one mile of any national or state military home or army post within the state of Indiana. Any company, corporation, firm or person who, either as owner, agent or employe, shall, directly or indirectly, violate any of the provisions of this section, shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars, and shall be imprisoned in the county jail not less than ten days nor more than thirty days.

Cruelty to Animals.

SEC. 584. Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or cruelly kills or causes or procures to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or cruelly killed, any animal; and whoever, having charge or custody of any animal, either as owner or otherwise, inflicts needless cruelty upon the same, or mutilates the same, or deprives it of any natural means of defense or pro-

tection, or cruelly or unnecessarily fails to provide the same with proper food, drink, shelter or protection from the weather, shall, on conviction, be fined in any sum not more than two hundred dollars, to which may be added imprisonment in the county jail for any period not exceeding sixty days.

Keeping Animals for Fighting, Etc.

SEC. 585. Any person who shall keep or use any animal, fowl or bird for the purpose of fighting, or baiting, or as a target, or to be shot at, either for amusement or as a test of skill in marksmanship, and any person who shall be a party to or be present as a spectator at any such fighting, baiting or shooting of any animal, fowl or bird, and any person who shall rent any building, shed, room, yard, ground or premises for the purpose of fighting, baiting or shooting any animal, fowl or bird, as aforesaid, or who shall knowingly suffer or permit the use of any building, shed, room, yard, ground or premises belonging to him or under his control for any of the purposes aforesaid, shall, on conviction, be fined not more than two hundred dollars, to which may be added imprisonment in the county jail for any period not exceeding sixty days.

Cruelly Carrying Animals.

SEC. 586. Every owner, possessor or person having the charge or custody of any animal who cruelly drives or works the same or who neglects or abandons such animal when no longer fit for labor, or who shall abandon any maimed, sick, infirm or disabled animal to die in any public place, or who shall carry or cause to be carried upon any vehicle, or otherwise, any living animal, fowl or bird, having the feet or legs tied together, or in any other cruel and inhuman manner, or who shall carry or cause to be carried any live animal upon any vehicle, or otherwise, without providing suitable racks, cars, crates or cages in which such animals may stand or lie down during transportation, or whilst awaiting slaughter, shall, on conviction, be fined not more than two hundred dollars, to which may be added imprisonment in the county jail for any period not exceeding sixty days.

Railroad Transportation of Animals.

SEC. 587. No railroad company in the carrying or transportation of animals shall permit the same to be confined in cars for a longer period than twenty-eight consecutive hours without unloading the same for rest, water and feeding, for a period of at least five consecutive hours, unless prevented from so unloading by storm or other unavoidable accident. In estimating the duration of such confinement, the time during which the animals have

been confined without rest on connecting roads from which they have been received shall be included, it being the intention of this section to prevent their continuous confinement beyond the period of twenty-eight hours except on contingencies hereinbefore stated. Animals so unloaded shall be properly fed, watered and sheltered during such rest by the owner or person having the custody thereof, or, in case of his default in so doing, then by the railroad company transporting the same, at the expense of such owner or person in custody thereof; and such company shall in such case have a lien upon such animals for food, care and custody furnished, and shall not be liable for any detention of such animals authorized by this section. Any railroad company, owner or custodian of such animals who shall fail to comply with the provisions of this section, shall, on conviction, for every such offense, be fined not less than one hundred dollars nor more than five hundred dollars: *Provided, however,* That when animals shall be carried in cars in which they can and do have the proper food, water, space and opportunity for rest, the foregoing provisions in regard to their being unloaded shall not apply.

Complaint—Search Warrant.

SEC. 588. When complaint is made on oath or affirmation to any magistrate authorized to issue warrants in criminal cases that the complainant believes that any of the provisions of the laws of this state in relation to cruelty to animals are being or are about to be violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue and deliver a search warrant to any sheriff, deputy sheriff, constable or police officer authorizing him to search such building or place, and to arrest any such person or persons engaged in violating any of the provisions of such humane laws, or laws against cruelty to animals, as well as to arrest any person or persons there present and aiding or abetting therein, and to bring all such persons before some magistrate of competent jurisdiction, to be dealt with according to law. Such officer shall, at the same time, seize and bring to such magistrate every article or instrument found in such building or place and especially designed or adapted to inflict wounds upon any animal or other living creature, or adapted to aid in the fighting, baiting or shooting of any animal, fowl or bird; and if on the trial of the person or persons so arrested it shall be found and adjudged by such magistrate, that such article or instrument is designed or adapted to the wounding or torture of animals, fowls or birds, and that it was intended to be used or employed for such purpose, the magistrate shall cause such article or instrument to be destroyed.

Horse, Glandered—Permitting at Large.

SEC. 589. Whoever knowingly permits any horse, mare or gelding affected with the glanders to be taken from his premises, or to run at large, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars.

Sheep, Diseased—Allowing at Large.

SEC. 590. Any person, being the owner of sheep, or having the same in charge, who shall turn or suffer any sheep having any contagious disease, knowing the same to be diseased, to run at large upon any common, highway or uninclosed ground, or who shall sell any such sheep, knowing the same to be diseased, without fully disclosing the fact to the purchaser, shall, on conviction, be fined not less than two dollars nor more than twenty-five dollars for each such diseased sheep.

Cattle, Diseased—Transporting, Etc.

SEC. 591. Every person shall so restrain his diseased or distempered cattle, or such as are under his care, that they may not go at large off his own premises or the land to which they belong; and no person shall drive any diseased or distempered cattle affected with what is commonly known as Texas or Spanish fever, or any other infectious disease, into or through this state, or from one place therein to another, unless it be to remove them from one piece of ground to another of the same owner, without passing over a public highway; and no railroad company or owner of a steamboat, or any other company or person, shall bring into this state, except for the purpose of being carried through into another state on a continuous journey, or transport from one part thereof to another any Texas, Mexican, Cherokee or Indian cattle affected as above.

Liable for Damages.

SEC. 592. Any person, railroad company or the owner of any steamboat, who shall offend against or violate any of the provisions of the next preceding section, shall be liable for all damages sustained on account of such Texas or Spanish fever, or other infectious disease, being communicated from any such diseased cattle to any other cattle in the neighborhood or along the line of such transportation, or removal of such diseased cattle into or through this state, or from any part thereof to another; and the existence or presence of such Texas or Spanish fever, or other contagious or infectious disease, among the native cattle of this state, on the same range with or in the vicinity of any such Texas, Mexican, Cherokee, Indian or other cattle, or along the line or

route over which they were removed or transported, shall be prima facie evidence that the same were affected with such disease at the time of being removed or transported, and communicated it to such native cattle so affected therewith.

Hog, Carcass—Transporting.

SEC. 592½. Whoever hauls, moves or transports upon any public highway the carcass, or any part thereof, of any hog that shall have come to its death from disease; or whoever shall so haul, move or transport upon any such highway any hog while such animal is afflicted with disease shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, or may be imprisoned in the county jail not exceeding six months, or may be punished by both such fine and imprisonment. The hauling, moving or transporting of any such hog, carcass or part thereof, to, or by the owner or employe of, any rendering or desiccating establishment, shall be prima facie a violation of this section: *Provided, however*, That the provisions of this section shall not apply to the streets, alleys or public highways of any incorporated town or city.

GAME.

Deer—Turkey—Pheasant.

SEC. 593. Whoever shoots or destroys or pursues for the purpose of shooting or destroying or has in his possession, dead or alive, except for breeding purposes, any wild deer, buck, doe or fawn, wild turkey, or any pheasant of any species or kind, killed or bred in this state, shall, on conviction, be fined not less than fifty dollars nor more than two hundred dollars for each wild deer, buck, doe, fawn, wild turkey, or pheasant of any species or kind so shot or destroyed, pursued or had in his possession.

Quail—Netting or Trapping.

SEC. 594. Whoever nets or traps, or attempts to net or trap any quail; or whoever has in his possession any net or trap for the purpose of netting or trapping any quail at any time, shall, on conviction, be fined not less than ten dollars nor more than fifty dollars for each offense. Each act of netting or trapping, or attempting to net or trap quail, or each day's possession of such net or trap, shall be deemed and held to be a separate and distinct offense and punishable as such.

Quail—Grouse—Prairie Chicken—Season.

SEC. 595. Whoever shoots, destroys, or pursues for the purpose of shooting or destroying, or has in his possession any quail, ruffed grouse, prairie chicken, or pinnated grouse, at any time from the

first day January of any year to the tenth day of November of the same year, shall, on conviction, be fined ten dollars for each quail, ruffed grouse, prairie chicken or pinnated grouse so shot, destroyed, pursued or had in his possession.

Quail—Number Can Shoot—Season.

SEC. 596. Whoever shoots or kills more than twenty-four quail in any one day between the tenth day of November and the first day of January of the succeeding year shall, on conviction, be fined ten dollars for each quail so shot or killed in excess of twenty-four.

Quail—Selling.

SEC. 597. Whoever sells, or offers for sale, directly or indirectly, at any time, any quail, shall, on conviction, be fined ten dollars for each quail sold or offered for sale.

Wild Goose—Duck—Brant—Season.

SEC. 598. Whoever shoots or destroys, or pursues for the purpose of shooting or destroying, or has in his possession any wild goose, wild duck, brant or other water fowl at any time from the fifteenth day of April of any year to the first day of September of the same year, or whoever, at any time between sunset of any day and sunrise of the succeeding day shoots or destroys any wild goose, wild duck, brant or other water fowl, or whoever at any time hunts, shoots, or pursues for the purpose of hunting or shooting, any wild goose, wild duck, brant or other water fowl, with a naphtha, electric or steam launch or boat, or any other kind of a boat except a row or push boat, for the purpose of shooting or destroying such wild goose, wild duck, brant or other water fowl, or whoever shoots or kills more than twenty-four ducks in any one day, shall, on conviction, be fined ten dollars for each wild goose, wild duck, brant or other water fowl so shot, destroyed, pursued or had in his possession.

Wild Ducks, Etc.—Number Can Shoot.

SEC. 599. Whoever shoots or kills more than twenty-four wild ducks, brant or other water fowl in any one day between the first day of September in any year and the fifteenth day of April of the succeeding year shall, on conviction, be fined ten dollars for each wild duck, brant or other water fowl so shot or killed in excess of twenty-four.

Wild Doves—Rabbit—Seasons—Ferret.

SEC. 600. Whoever shoots or destroys or pursues for the purpose of shooting or destroying, or has in his possession any wild dove at any time from the first day of January of any year to

the fifteenth day of August of the same year, and from the first day of October of any year to the tenth day of November of the same year, or whoever hunts, shoots, or destroys, or has in his possession, any rabbit from the first day of October of any year to the tenth day of November of the same year, shall, on conviction, be fined ten dollars for each wild dove so shot or destroyed, pursued or had in his possession: *Provided,* That owners of nurseries shall have the right to give permission to others to hunt with ferrets and kill rabbits at any time during the year, on the premises used for nursery purposes.

Squirrel Season.

SEC. 601. Whoever shoots or destroys, or pursues for the purpose of shooting or destroying, or has in his possession any wild squirrel from the first day of January of any year to the first day of August of the same year, shall, on conviction, be fined ten dollars for each squirrel so shot, destroyed, pursued or had in his possession.

Game Birds Defined.

SEC. 602. It shall be unlawful for any person to kill, trap or possess any wild bird, or to purchase or offer the same for sale, or to destroy the nest or eggs of any wild bird, except as otherwise provided in this section. But this section shall not apply to the following named game birds: The anatidæ, commonly called swans, geese, brant, river and sea duck; the rallidæ, commonly known as rails, coots, mud-hens and gallilunes; the linicolæ, commonly known as shore birds, plovers, surf birds, snipe, wookcock, sand pipers, tattlers and curlews; nor to English or European house sparrows, crows, hawks, or other birds of prey. Nor shall this section apply to any person taking birds or their nests or eggs for scientific purposes under permit as provided in the next section. Any person violating the provisions of this section shall, on conviction, be fined not less than ten dollars nor more than fifty dollars.

Permits—How Obtained—Bond.

SEC. 603. Permits may be granted by the commissioner of fisheries and game to any properly accredited person, permitting the holder thereof to collect birds, their nests or eggs for strictly scientific purposes. In order to obtain such permit the applicant for the same must present to such commissioner written testimonials from two well known scientific men certifying to the good character and fitness of such applicant to be entrusted with such privilege, and pay to such commissioner one dollar therefor, and file with him a properly executed bond in the sum of two hundred

dollars, payable to the State of Indiana, conditioned that he will obey the terms of such permit, and signed by at least two responsible citizens of the state as sureties. The bond may be forfeited, and the permit revoked upon proof to the satisfaction of such commissioner that the holder of such permit has killed any bird or taken the nests or eggs of any bird for any other purpose than that named in this section.

Permit to Hunt—Enclosed Land.

SEC. 604. Whoever hunts with dog or ferrets, or whoever hunts or shoots with any kind of firearms, upon any land without first securing the consent of the owner or tenant thereof, shall, on conviction, be fined not less than ten dollars nor more than twenty-five dollars.

Injury to Property While Hunting.

SEC. 605. Whoever, while hunting upon the lands of another, carelessly or wantonly injures any cow, horse, hog, sheep, chicken, turkey, duck, or other property, either real or personal, of any person, shall, on conviction, be fined not less than the value of the property destroyed, or amount of the injury done, nor more than double the value of the property destroyed, or amount of the injury done.

Song Birds.

SEC. 606. Whoever hunts or shoots wild birds, rabbits, or any species of game with any kind of firearms on the first day of the week, commonly called Sunday, shall, on conviction, be fined not less than one dollar nor more than fifty dollars.

Woodcock—Sale—Season.

SEC. 607. Whoever sells, keeps, or exposes for sale any woodcock between the first day of January and the first day of July in any year, or keeps, sells, or exposes for sale any wild duck between the fifteenth day of April and the first day of September in any year, shall be fined one dollar for every wood-cock or wild duck so unlawfully kept, sold, or exposed for sale.

Hunting—Closed Season.

SEC. 608. It shall be unlawful to hunt any kind of game except wild duck and other water fowl, at any time from October first of any year to November tenth of the same year. Any one guilty of violating any of the provisions of this section shall, on conviction, be fined not less than five dollars nor more than fifty dollars for each offense, and every day this section is violated shall constitute a separate and distinct offense.

Wild Duck and Water Fowls—Season—Permit.

SEC. 609. It shall be unlawful for any person who is a resident of the State of Indiana to hunt anywhere within the State of Indiana, except in the township wherein he resides, any of the wild animals, fowls or birds that are protected by law during any period of the year, without first procuring a license so to do, and then only during the respective periods of the year when it shall be lawful so to do. It shall be the duty of the commissioner of fisheries and game to issue such license upon the application of any reputable person, who is a resident of Indiana, upon the payment of a fee of one dollar annually to such commissioner, which shall be by him sent to the treasurer of state to be turned into the fish and game protective fund as described in section 626 of this act: *Provided,* That no license shall be issued to any person under the age of fourteen years unless the application of such person is endorsed in writing by the parent or guardian of such applicant. Such license shall have attached thereto a photograph of the applicant and shall contain a description of the age, height, weight, complexion, color of hair, color of eyes, with any distinctive mark or marks of the holder thereof, and shall contain the signature and seal of the commissioner of fisheries and game. Such license shall be good for one year from the date thereof. Any person securing such license shall have the same in his possession at any time when he is hunting, ready to exhibt to the commissioner of fisheries and game, or any of his deputies, upon request. Any one guilty of violating the provisions of this section shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars.

Carriers Carrying Game Outside of State.

SEC. 610. It shall be unlawful for any railroad company, express company, or other common carrier, or other person, to transport, take or carry or receive for the purpose of transporting, taking or carrying beyond the limits of this state, any wild deer, buck, doe or fawn, any quail, wild duck, brant, wild goose, or other water fowl, ruffed grouse, pinnated grouse, prairie chicken, wood-cock, wild turkey, or any pheasant of any kind or species (except as provided in the next section). Any railroad company, express company or other common carrier, or other person violating any of the provisions of this section shall, on conviction, be fined one hundred dollars for each such wild deer, buck, doe or fawn transported, taken or carried or received for the purpose of transportation, taking or carrying beyond the limits of this state; fifty dollars for each pheasant of any kind or species, or wild turkey so transported, taken or carried beyond the limits of this state, and ten dollars for each quail, wild duck, brant, wild

goose, or other wild water fowl, ruffed grouse, pinnated grouse, prairie chicken or wood-cock transported, taken or carried or received for th purpose of being transported, taken or carried beyond the limits of this state.

Non-Residents—License—Form—Fee—Emergency.

SEC. 611. It shall be unlawful for any person who is a nonresident of the State of Indiana to hunt anywhere within the State of Indiana any of the wild animals, fowls or birds that are protected by law during any part of the year without procuring a license so to do, and then only during the respective periods of the year when it shall be lawful to do so. Such license shall be procured in the following manner, to wit: The applicant shall fill out a blank application to be furnished by the clerk of the circuit court of any county of the state, stating the name, age, occupation and place of residence of the applicant, which application shall be sworn to before some person authorized to administer oaths in the State of Indiana or the state in which the applicant resides. Upon the presentation of such application, together with a photograph of the applicant, to the clerk of the circuit court of any county in the state, such clerk shall issue to applicant a license to hunt anywhere in the State of Indiana. Such license shall have attached thereto the said photograph of the licensee and shall be good for one year and shall be substantially in the following form, to wit:

State of Indiana, County of ....., ss:

This certifies that ....., a resident of ..... county, state of ....., has complied with the law authorizing the issuance of hunting licenses to nonresidents of the State of Indiana, and is hereby licensed to hunt anywhere in the State of Indiana for the period of one year from the date of this license.

Description of licensee: Age, ... years; height, ... feet ..... inches; weight, ... pounds; complexion, ...; color of hair, ...; color of eyes, ...; distinctive marks, ...

Witness the signature of the clerk of said county and the seal of the circuit court of said county this ..... day of....., 190..

....., Clerk ..... Circuit Court.

Before the issuance of any such license the applicant shall pay to such clerk the sum of fifteen dollars and fifty cents, fifteen dollars of which shall be paid by said clerk to the treasurer of state as part of the fish and game protective fund, as hereinafter provided, and fifty cents of which shall be reserved by said clerk

and disposed of as other fees of his office are disposed of. Any licensee under the provisions of this section is hereby authorized to take from the state of Indiana twenty-four birds of all kinds killed by himself, which birds shall be carried openly for inspection, together with his license. Whoever violates any of the provisions of this section shall, on conviction, be fined not less than twenty-five dollars nor more than one hundred dollars, to which may be added imprisonment in the county jail for any period not less than thirty days nor more than sixty days. An emergency existing, the provisions of this section shall be in full force and effect from and after the passage of this act.

Fish—Seines, Traps or Spears in Possession.

SEC. 613. Whoever has in his possession any seine, dip net, gill net, pond net, or other kind of net, spear, gig or trap, or any part thereof, except as otherwise provided in this section, shall, on conviction, be fined not less than five dollars nor more than two hundred dollars for each offense, to which may be added imprisonment in the county jail for any determinate period, and every day's possession of such articles, or any of them, shall constitute a separate and distinct offense under this section: *Provided,* This section shall not apply to persons who have in their possession nets, seines, traps or other fishing tackle for the purpose of taking fish from Lake Michigan, the Ohio river, or the Wabash river in so far as it is the boundary line between the states of Indiana and Illinois, except that persons having such nets, seines and other devices for use in any of the said waters, shall keep the same within two miles of such waters: *Provided, also,* That this section shall not apply to owners of private ponds who keep a seine for use only in such ponds: *Provided, also,* That this section shall not apply to minnow traps or minnow seines not more than twelve feet long, four feet deep, and the meshes of which shall not be larger than one-fourth of an inch.

Fish Trap Prohibited.

SEC. 614. Any person who shall construct any fish trap or other device for catching fish, or shall shoot, spear, gig, or in any manner take or kill any fish within one thousand feet of any fish ladder constructed on any dam in the State of Indiana, save and except by hook and line, shall, on conviction, be fined not less than twenty-five dollars nor more than seventy-five dollars, and the township trustee shall, or any other person may, destroy any fish trap or other device for catching fish found within one thousand feet of any such fish ladder.

Fishing Season—Inland Lakes.

SEC. 615. Whoever shall take, catch or kill, or attempt to take, catch or kill any fish in any of the inland lakes of this state, except private ponds, by any means or with any device whatever, from the twentieth day of March of any year, to the fifteenth day of May of the same year; or whoever shall sell or offer for sale, any pike, pickerel, wall-eyed pike, perch, blue gills, black bass, green bass, rock bass, or other species of bass, caught in any of the waters of this state, at any time, shall, on conviction, be fined five dollars for each fish caught, sold or offered for sale, and not less than ten dollars nor more than twenty-five dollars for each attempt to catch fish in violation of any of the provisions of this section: *Provided,* That none of the provisions of this section shall operate to prevent any person from taking fish with a hook and line in any of the streams or ponds of this state, at any time of the year.

Ice on Streams—Catching Fish.

SEC. 616. Whoever shall take, catch or kill, or attempt to take, catch or kill any fish in any of the waters of this state by any means, or with any device whatever, except with not to exceed two fish hooks at any one time, at any time when such waters are covered in whole or in part with ice; or whoever shall catch, kill or have in his possession more than fifty bluegills, sunfish or crappies in any one day, or whoever takes or attempts to take any fish by any means or with any device from any of the waters of this state at any time when the same are covered in whole or in part with ice, from, or in any movable fish house, fish shanty or other movable enclosure, shall be deemed guilty of a misdemeanor, and on conviction, shall be fined five dollars for each fish caught or possessed in violation of this section and not less than ten dollars nor more than twenty-five dollars for each attempt to catch fish in violation of this section. It shall be unlawful for any railroad company, express company, or other common carrier to transport, take or carry, or receive for the purpose of transporting, taking or carrying beyond the limits of this state any pike, pickerel, wall-eyed pike, perch, bluegill, black bass, green bass, rock bass, or other species of bass, and it shall be unlawful for any person or persons to deliver or offer to deliver to any railroad company, express company, or other common carrier, any of the said species of fish for the purpose of transporting, taking or carrying same beyond the limits of this state: *Provided,* That none of the provisions of this section shall prevent any person, other than a common carrier, from personally taking a total of not to exceed twenty-four of the said species of fish caught by himself, beyond the limits of this state, which said fish shall be carried by such per-

son openly for inspection by any officer of the Indiana fish and game commission. Whoever shall violate any of the provisions of this section shall, upon conviction thereof, be fined ten dollars for each fish transported, taken or carried, or received for the purpose of transporting, taking or carrying, or delivered, or offer of delivery for the purpose of transporting, taking, or carrying beyond the limits of this state.

Shooting Fish.

SEC. 617. Whoever at any time shoots or shoots at any fish of any kind in any of the waters of this state, shall, on conviction, be fined not less than five dollars nor more than fifty dollars for each offense, to which may be added imprisonment in the county jail not exceeding thirty days.

Trot Line.

SEC. 618. Whoever fishes in any of the waters of this state with more than one trot line, having not to exceed one hundred hooks, at any one time, shall, on conviction, be fined not less than five dollars nor more than fifty dollars for each offense: *Provided*, That the provisions of this section shall not apply to the Ohio river, Lake Michigan, and the Wabash river so far as it is the boundary line between the states of Indiana and Illinois.

Catching of Fish Regulated.

SEC. 619. Whoever shall take, catch or kill, or attempt to take, catch or kill any fish in any of the waters of this state by means of any gig, spear, seine, net, or trap of any kind, except as otherwise provided in this section; or whoever shall kill or destroy, or attempt to kill or destroy any fish by the use of Indian cockle, fish berries or other substances which have a tendency to stupefy or poison fish, shall, on conviction, be fined not less than ten dollars nor more than twenty dollars, to which may be added imprisonment in the county jail for any period not to exceed thirty days, and for a second or subsequent offense he shall be fined not less than fifty dollars nor more than two hundred dollars, to which may be added imprisonment in the county jail for any period not to exceed sixty days: *Provided*, That the provisions of this section as to the use of a gig, spear, seine, net or trap of any kind shall not apply to the waters of Lake Michigan, private ponds, the Ohio river, or the Wabash river so far as it is the boundary line between the states of Indiana and Illinois; but, in such case, it shall, nevertheless, be unlawful to use any net, seine, or trap in the Ohio river, or Wabash river so far as the same is the boundary line between the states of Indiana and Illinois, within one hundred yards of the mouth of any stream emptying into said rivers from the Indiana

side. Nor to persons catching minnows for bait with a minnow trap or a minnow seine, which seine shall not be more than twelve feet long, four feet deep, and the meshes of which shall not be larger than one-fourth of an inch.

Size of Fish Caught.

SEC. 620. No pickerel or pike perch, commonly called wall-eyed pike, less than twelve inches in length, or rock bass, or crappie, less than six inches in length, or black bass less than ten inches in length, shall be intentionally taken from the waters of this state, or possessed, and in case any such fish is taken the person taking it shall immediately return it to the waters from which it was taken without unnecessary injury. Any person violating the provisions of this section shall, on conviction, be fined not exceeding ten dollars.

Number of Fish Caught.

SEC. 621. No person shall take, catch, kill or possess more than twenty bass in any one day. Where two or more persons are fishing or angling from the same boat, the aggregate number of bass taken, caught, killed or possessed by the occupants of said boat shall not exceed thirty-six. Whoever shall violate any of the provisions of this section shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars for each fish so taken or possessed, in excess of the number as limited in this section.

Obstruction of Streams.

SEC. 622. Whoever stretches or places any obstruction other than a dam across any of the streams of the state which prevents the fish from ascending or descending any such stream shall be fined not less than ten dollars nor more than one hundred dollars.

Pollution of Streams.

SEC. 623. It shall be unlawful for any person, firm or corporation, to cause, suffer or permit any dye-stuff, acid, coal-tar, oil, log-wood, sulphur water, or other refuse matter or substance to be thrown, run or drained into any of the waters of this state in quantities sufficient to injure or destroy the lives of fish which may inhabit the same at or below the point where any such substance is discharged or permitted to flow into such waters. Whoever shall violate any of the provisions of this section shall, on conviction, be fined not less than twenty-five dollars nor more than one hundred dollars for each offense: *Provided*, That the provisions of this section shall not abridge the rights of owners of gas or oil wells to drain the waters from such wells into the waters of the state, as now permitted by law.

Explosives Prohibited.

SEC. 624. Whoever uses dynamite or other explosive in any of the waters of this state, except for mining or mechanical purposes, by special permission of the commissioner of fisheries and game, or his chief deputy, shall, on conviction, be fined not less than two hundred and fifty dollars, nor more than one thousand dollars, to which may be added imprisonment in the county jail not less than thirty days nor more than one year; and for a second or subsequent offense he shall be fined five hundred dollars and imprisoned in the state prison not less than one year nor more than three years.

Trespassing on Land.

SEC. 625. No person shall enter upon any enclosed land for the purpose of setting a trot line without first obtaining the consent of the owner, lessee or tenant of such premises. Whoever shall violate or attempt to violate the provisions of this section shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars.

Commissioner—Fee in Prosecutions.

SEC. 626. In all cases of conviction or on pleas of guilty of violating any of the provisions of this act in relation to fish or game, there shall be taxed against each defendant so convicted, in favor of the commissioner of fisheries and game, a fee of twenty dollars as a part of the costs. Said fees shall be paid by the officer collecting the same to the auditor of state every sixty days, on the first day of alternate months, in the manner in which license fees referred to in section 611 of this act are paid; and such fees shall be paid to the treasurer of state by the auditor of state as a part of the fish and game protective fund to be expended by the commissioner of fisheries and game in paying rewards and other expenses for the detection and conviction of persons who violate provisions of this act, and the fish and game laws of this state.

Powers of Commissioner Not Abridged.

SEC. 626½. Nothing contained in this act shall in any way abridge or repeal the powers conferred on the commissioner of fisheries and game by the act creating his office, but all the powers and privileges conferred on him by said act are hereby reaffirmed.

Canada Thistles—Allowing to Grow.

SEC. 627. Any person who shall knowingly allow Canada thistle or thistles to grow and mature, or shall allow any Canada thistle or thistles to grow until they or any of them become of the length of six (6) inches, measuring from the surface of the soil to the end or the tip of the stem above the surface of the ground, upon his, her or their land, or upon any land which they shall occupy or have under their charge and control; and every supervisor of roads or other officer, having charge of or control over highways, who shall knowingly allow any Canada thistle or thistles to grow or mature, or grow to the length of six (6) inches as above defined, in any public highway, street or alley over which such supervisor or officer has supervision; and every section boss, roadmaster or other officer of any railroad having charge of or control over such railroad property, who shall knowingly allow Canada thistle[s] or any Canada thistle to grow and mature, or to grow to the length of six (6) inches as above defined, on any lands held, owned or used by said company or by any person operating such railroad, depot or station grounds, as right of way or otherwise, for the portion of said railroad over which such section boss, roadmaster or other officer has supervision, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined, for the first offense, in any sum not more than one ($1) dollar, and for each subsequent offense in any sum not more than ten ($10) dollars.

Complaint to Supervisor.

SEC. 627a. If any resident in any township of this state shall make complaint to any road supervisor in the township in which such resident may live that any owner or occupant of land (as described in section 627 of this act), in the said road supervisor's district, is allowing Canada thistle to grow (as defined in section 627 of this act), it shall be the duty of the said road supervisor to notify the said owner or occupant of said land to within five (5) days cut the said thistles off below the surface of the ground. Any owner or occupant of land, after having been notified as aforesaid, who shall fail to perform the duties required of him by the preceding section and by section 627a of this act, shall be guilty of the offense described in section 627 of this act and liable to the penalties provided therefor.

Failure of Supervisor—Township Trustee or Mayor.

SEC. 627b. Any supervisor who shall fail to perform the duties required of him by this act shall be guilty of the offense described in section 627 of this act and liable to the penalties therefor:

Provided, That in case any road supervisor or other officer having charge of any public street or highway in this state, shall be guilty of allowing Canada thistles to grow upon any public highway, road, or street (as described in section 627 of this act), it shall be the duty of the township trustee in case the offense shall be committed outside of the limits of any incorporated town or city of this state; or in case it shall be inside the limits of any incorporated town or city, it shall be the duty of the mayor or president of the board of trustees of such town or city to perform the duties required of the road supervisor in section 627a of this act.

Convictions—Fee for Supervisor.

SEC. 627c. For every conviction under this act brought about by a road supervisor or other officer whose duty it shall be to enforce the provisions hereof, he shall receive five ($5) dollars, to be taxed as other costs in the case.

Grain Containing Thistles.

SEC. 628. Whoever knowingly sells or barters any seed or any grain of any kind whatever, containing Canada thistle's seed, shall, on conviction, be fined not less than twenty dollars nor more than two hundred dollars.

Employment of Child Labor—Overwork.

SEC. 629. Any person, firm, company, corporation or association engaged in manufacturing in this state, and permitted by law to employ child labor; or any foreman, clerk, officer, or agent of any such person, firm, corporation or association, who shall employ or keep at work any child under fourteen years of age more than eight hours per day, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Telegraph or Telephone Disclosure.

SEC. 630. Whoever, being an operator, clerk, servant, messenger or employe of any telegraph company or telephone company, discloses the contents of any dispatch or message sent or received from any office of such company, or any conversation or communication between persons over the line of any such telephone company, except to a court of justice, or to a person authorized to know the same, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars.

Promoting Divorces.

SEC. 631. Whoever advertises, prints, publishes, distributes, or circulates, or causes to be advertised, printed, published, distributed or circulated, any pamphlet, circular, card, hand bill, ad-

vertisement, printed paper, book, newspaper or notice of any kind, advertising or calling attention to the procuring of divorces, either in this state or elsewhere, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

False Label of Weight.

SEC. 632. Whoever packs, brands or sells, or causes to be packed, branded or sold, any salt, beef, pork, flour, tobacco or hay in barrels or packages, as full barrels or packages, when such barrels or packages do not contain the weight which by law they are required to contain, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Altering Inspector's Marks.

SEC. 633. Whoever alters or erases any brand or mark of any inspector, appointed by proper authority, placed on any barrel of salt, flour, beef, pork, or hogshead of tobacco, or other article authorized by law to be inspected and branded, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars.

Pauper—Bringing Into State.

SEC. 634. Whoever, knowingly, brings within this state a pauper with the intention of making him a charge upon any of the counties of this state, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Deserting Wife or Child.

SEC. 635. Whoever, without cause, deserts his wife, or his or her child or children, and leaves them or any of them a charge upon any county or township of this state, or without provision for comfortable support, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Vagrancy.

SEC. 636. Any person over the age of fourteen years, and physically able to perform manual labor, who has not made reasonable effort to procure employment, or who has refused to labor for compensation when labor is offered, who is found in a state of vagrancy or practicing common begging, shall, on conviction, be fined not less than five dollars nor more than fifty dollars.

Tramps.

SEC. 637. Whoever, except a female or a blind person or cripple, not being in the county in which he usually lives or has his home, is found going about begging and asking subsistence by charity, shall be taken and deemed to be a tramp. Any tramp who

enters a dwelling house or enclosure, or yard about a dwelling house, against the will or without the permission of the owner or occupant thereof, or does not, when requested, immediately leave such place, or does or threatens to do any injury to the person, or real and personal property of another, shall, on conviction, be fined not less than five dollars nor more than fifty dollars.

Amalgamation.

SEC. 638. No person having one-eighth part or more of negro blood shall be permitted to marry any white woman of this state, nor shall any white man be permitted to marry any negro woman or any woman having one-eighth part or more of negro blood, and every person who shall knowingly marry in violation of the provisions of this section shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned in the state prison not less than one year nor more than ten years.

Amalgamation—Counseling.

SEC. 639. Whoever knowingly counsels or assists in any manner in any marriage between any person having one-eighth part or more of negro blood and any white person, shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars.

Swindling Underwriter.

SEC. 640. Whoever shall knowingly make any false or fraudulent representation in or with reference to any application for insurance, or present, or cause to be presented, any false or fraudulent claim, with intent to obtain any money or benefit in, to or from any corporation, association or society transacting insurance or indemnity business of any kind; or whoever shall prepare, make or subscribe any account, certificate, survey, affidavit, proof of loss, or other book, paper or writing, with intent to present or use the same, or allow it to be presented or used in support of any such claim; or whoever shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of the holder of any certificate or policy in any life, accident, casualty or indemnity insurance corporation, association or society, for the purpose of procuring payment of a benefit named in the certificate or policy of such holder, shall, on conviction, be fined not more than one thousand dollars, to which may be added imprisonment in the state prison not less than one year nor more than three years.

Conspiracy to Commit Felony.

SEC. 641. Any person or persons who shall unite or combine with any other person or persons for the purpose of committing a felony, within or without this state; or any person or persons who shall knowingly unite with any other person or persons, body, association or combination of persons, whose object is the commission of a felony or felonies, within or without this state, shall, on conviction, be fined not less than twenty-five dollars nor more than five thousand dollars, and imprisoned in the state prison not less than two years nor more than fourteen years.

Insurance—Fraudulent Advertising.

SEC. 642. Whoever represents or advertises himself by poster, circular letter or in any other manner, as the agent of any insurance company which is not possessed of the capital and assets required by the laws of this state, or which has not complied with such laws, shall, on conviction, be fined not less than ten dollars, nor more than one hundred dollars, to which shall be added imprisonment in the county jail not exceeding six months.

Insurance—Advertising Illegal Company—Agent.

SEC. 643. Whoever represents or advertises himself by poster, circular letter or in any other manner, as the agent of any fictitious or spurious insurance company which is not possessed of the capital and assets required by the laws of this state, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, to which shall be added imprisonment in the county jail not exceeding six months.

Malicious Prosecution.

SEC. 644. If any person shall maliciously and without probable cause attempt to cause an indictment to be found, or other prosecution to be commenced against any person for any crime or misdemeanor; or if two or more persons shall conspire together for such purpose, the person so sought to be indicted or otherwise prosecuted being innocent, such person or persons so offending, shall, on conviction, be fined not more than one thousand dollars, to which may be added imprisonment in the county jail not less than ten days nor more than six months.

Drawbridge—Failure to Keep Light.

SEC. 645. Whoever maintains any drawbridge across any navigable stream in this state, during the season of the navigation of such stream, without placing at night a light on each side of the draw or passway of such bridge, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Obstructing Navigable Stream.

SEC. 646. Whoever erects, maintains or continues any artificial obstruction in or across the bed or channel of any navigable stream, the bed or channel whereof may not have been surveyed, and sold as land by the United States, shall, on conviction, be fined not less than five dollars, nor more than five hundred dollars for each week such artificial obstruction shall have been maintained or continued.

Maintaining Bridge Without Draw.

SEC. 647. Whoever constructs or maintains a bridge across any river in this state, navigable by steamboats, without making or providing a draw upon such bridge of a width of not less than five feet larger than the width of the largest steamboat that usually navigates such river, and so as to admit the passage of any such steamboat through the same without any unnecessary obstruction or detention, shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars.

Leaving Bridge Open.

SEC. 648. Whoever opens or moves any swing-bridge, located across any canal, feeder, river or stream within the limits of this state, whether such opening or moving is with or without the purpose of passing the same with any water craft, boat, raft, or other floating object, and fails or neglects to shut and replace the same without unnecessary delay, so as to afford a free passage thereon as soon as such water craft, boat, raft, or other floating object, in case of the passage thereof, shall have passed such bridge, shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars.

Injury to Bridge.

SEC. 649. Whoever purposely, carelessly or negligently runs any water craft, boat, raft, log or other floating object against any swing bridge mentioned and specified in the preceding section, so as in any manner to injure such bridge, or for the purpose of forcing the same open, shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars for every such offense.

Opening Canal Locks.

SEC. 650. Whoever unnecessarily opens or causes to be opened and shut any lock, paddle, culvert or water gate of any canal, or drives any spike, nail, pin or wedge into any such gate, or in any manner interferes with the free use thereof, or places upon or takes from the tumble or regulating weir of any lock, any

device placed there to increase or diminish the flow of water over such tumble or weir, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not more than three months.

Marriage Without Authority.

SEC. 651. Whoever undertakes to join others in marriage when he is not lawfully authorized to do so; or whoever knowingly joins in marriage persons forbidden by law to become married, shall, on conviction, be fined not less than fifty dollars nor more than five hundred dollars, to which may be added imprisonment in the county jail not less than ten days nor more than three months.

Marriage—Failure to Return.

SEC. 652. Whoever, having solemnized a marriage, fails to return a certificate thereof, with the license therefor, within three months thereafter, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars.

Taxables—Giving False List.

SEC. 653. Whoever, when requested by any officer or board authorized by law to assess property for taxation, fails to give a true list of all his taxable property, or to take and subscribe any oath in that behalf, as required by law, or shall fix a fraudulent value where an oath is not required on such property, shall, on conviction, be fined not less than ten dollars nor more than five hundred dollars.

Highway—Obstructing.

SEC. 654. Whoever sets any stone or other monument in any public road or highway, in order to mark a section corner, or any division of lands, in such manner that the same projects above the surface of the ground, shall, on conviction, be fined not less than five dollars nor more than twenty-five dollars.

Highway—Rubbish.

SEC. 655. Whoever puts, throws, dumps or leaves any tin cans, old iron, brush, boxes, tools, machinery, vehicles, rubbish, brick, wood, logs or debris of any kind or character whatsoever in, upon or within the limits of any public highway shall, on conviction, be fined in any sum not exceeding fifty dollars.

Defrauding Creditors.

SEC. 656. Whoever, being a party to the sale and delivery of any goods or chattels, or to any conveyance or assignment of any interest in land, or of any profits issuing therefrom, or of

any goods, chattels or things in action, made to defraud purchasers, or to hinder, delay or defraud creditors, or whoever, being privy to or knowing of such sale or conveyance, willingly aids in carrying out the same, as having been made in good faith, shall, on conviction, be fined not more than two hundred dollars and be imprisoned in the county jail not less than one month nor more than one year.

Appropriating Estray.

SEC. 657. If the taker up of estray property shall suffer the same to be taken out of the county for more than three days at a time, or shall convert the same to his own use, before the title thereto shall vest in him according to law, or if he or any officer shall knowingly and wilfully violate any of the provisions of the law regulating the taking up of estrays, such person or officer shall, on conviction, be fined not less than five dollars nor more than one hundred dollars.

Entry on State Lands.

SEC. 658. Whoever, having been removed by a proper officer from land mortgaged to the state and remaining delinquent, shall return to settle upon such land without the consent of the auditor of the county, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars and imprisoned in the county jail not less than ten days nor more than thirty days.

Highways—Racing.

SEC. 659. Whoever knowingly suffers his horse, mare or gelding to be run in a horse-race, along any public highway in this state, and whoever acts as a rider in any such race, shall, on conviction, be fined not less than five dollars nor more than fifty dollars.

Running Horses in City or Town.

SEC. 660. Whoever runs horses, mares or geldings or shoots at a mark within the limits of any city, town or village, or along or across any street thereof, shall, on conviction, be fined not more than three dollars.

License—Failure to Have.

SEC. 661. Whoever, by himself or agent, transacts any business or does any act without a license therefor, when such license is required by any law of this state, shall, on conviction, be fined not less than five dollars nor more than two hundred dollars.

Ferriage—Toll—Illegal Charge.

SEC. 662. If any ferryman, ferry owner, ferry keeper, or keeper of a toll bridge, or any person in his employment, shall demand or receive any greater fee on account of ferriage or toll, than is or may be fixed by law, or ordinance of any city or town, or by the proper board doing county business, as the rates of ferriage or toll to be received by such person, or shall fail to cause the bridge or banks of the stream over or upon which such ferry or bridge may be situated, to be kept in good condition for the passage of loaded wagons, or shall fail to give due and proper attendance to such ferry or bridge, according to the laws, ordinances or orders in force for the regulation of ferries or bridges, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, or imprisoned in the county jail not less than ten days nor more than one month.

Garnishment—Oppressive.

SEC. 663. Whoever, whether principal, agent or attorney, with intent thereby to deprive any bona fide resident of the State of Indiana of his or her rights, under the statutes of Indiana, on the subject of the exemption of property from levy and sale on execution, or in attachment or garnishment, sends or causes to be sent out of the State of Indiana any claim for debt to be collected by proceedings in attachment, garnishment or other mesne process, when the creditor, debtor, or person or corporation, owing for the earnings intended to be reached by such proceedings in attachment, are each and all within the jurisdiction of the courts of the State of Indiana, shall, on conviction, be fined for each claim so sent, not less than twenty dollars nor more than fifty dollars.

Garnishment—Transfer.

SEC. 664. Whoever, either directly or indirectly, assigns or transfers any claim for debt against a citizen of Indiana for the purpose of having the same collected by proceedings in attachment, garnishment or other process, out of the wages or personal earnings of the debtors, in courts outside of the State of Indiana, when the creditor, debtor and person or corporation owing the money intended to be reached by the proceedings in attachment are each and all within the jurisdiction of the courts of the State of Indiana, shall, on conviction, be fined in any sum not less than twenty dollars nor more than fifty dollars.

Climbing on Moving Trains.

SEC. 665. Whoever, not being a passenger or employe, either climbs, jumps or steps upon, swings upon, or attaches himself to

or steps, jumps or swings upon any locomotive engine or car, street car or interurban car, while the same is in motion, shall, on conviction, be fined not more than three dollars.

Highway—Obstructing With Cars.

SEC. 666. Whoever, being a conductor or other person having charge of, or running a railroad train, carrying or used for carrying freight, permits or suffers the same or any car or locomotive engine composing the same to remain standing across any public highway, street, alley or farm crossing, or who, whenever it becomes necessary to stop such train across any public highway, street, alley or farm crossing fails or neglects to leave a space of sixty feet across such public highway, street, alley or farm crossing shall be fined not more than twenty dollars nor less than three dollars.

Passenger Cars Without Tools.

SEC. 667. Whoever shall, either as a conductor or engineer, assist in the running of any passenger cars over any railroad in this state, which have not been provided with an ax, sledge hammer, saw and bucket, placed in some convenient and conspicuous place in each such passenger car, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, and in such case such railroad company employing such officer or employe shall be liable to the same penalty as such employe.

Railroad Crossings—Steam or Electric—Stops.

SEC. 668. Whoever, being the engineer of any locomotive or the motorman of any interurban electric car running upon any railroad track, upon or over which passengers are, or may be transported, runs such locomotive or interurban electric car across or upon the track of any other railroad or interurban railroad at a place where no system of interlocking works or fixtures is maintained as provided by the laws of this state, without first coming to a full stop before entering upon or crossing such other track, and without first ascertaining that there is no other train, locomotive or car in sight, approaching and about to pass over such other track; or whoever, being such engineer or motorman, runs such locomotive or interurban electric car upon or across such track when a locomotive or car is in sight, approaching and about to pass upon and over such crossing on such other track, shall, on conviction, be fined not less than one hundred dollars, nor more than one thousand dollars, and be imprisoned in the county jail not less than three months nor more than one year; and if

any person shall be injured or killed by reason of such crossing, such engineer or motorman so violating the provision of this section shall be imprisoned in the state prison not less than two years nor more than fourteen years.

Deceiving Engineer or Motorman.

SEC. 669. Whoever shall falsely report to the engineer of any locomotive or motorman of any interurban or electric car running upon any railroad track, upon and over which passengers are or may be transported, that there is no train or locomotive upon the track of any other railroad or interurban railroad, in sight, and approaching the place where such roads cross, or upon such crossing; or whoever, being the conductor of any train or interurban or electric car, orders and directs the engineer or motorman to violate the provisions of the preceding section; or whoever, being a brakeman of any train of cars, by reason of his gross carelessness or wilful neglect of duty, causes such train or locomotive or such interurban or electric car to run across or upon such crossing, shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned in the county jail not less than three months nor more than one year; and if any person shall be injured or killed by reason of the violation of any of the provisions of this section, the person so violating such provision or provisions shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years.

Railroad Crossings—Running Upon.

SEC. 670. Whoever, being an engineer or motorman, permits his locomotive or interurban or electric car to run upon or across the track of any other railroad or interurban railroad at a crossing not provided with a system of interlocking works or fixtures, before the locomotive or train coming upon the other track shall have passed over such crossing, if the locomotive or train on the other track shall arrive at the crossing first, shall, on conviction, be fined not less than one hundred dollars, nor more than one thousand dollars, and imprisoned in the county jail not less than three months nor more than one year; and if any person be killed or injured by reason of the violation of any provision of this section, the person so violating such provision shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years.

Railroad Crossing—Stopping Cars On.

SEC. 671. Whoever, being the engineer, conductor, motorman or other person, having charge of any railroad train or locomotive or any interurban or electric car, permits or suffers the same to be

stopped or remain stationary upon any railroad or interurban railroad crossing, unless the same is done by united agreement and under specific regulations adopted by the directors of such crossing railroads, shall, on conviction, be fined not less than one hundred dollars nor more than one thousand dollars, and imprisoned in the county jail not less than three months nor more than one year; and if any person be injured or killed by reason of the violation of any provision of this section, the person so violating such provision shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years.

Suffering Cars to Be Locked.

SEC. 672. Whoever, being the superintendent, officer, agent or employe of any company engaged in transporting passengers, suffers or permits any of its cars, containing any passenger, to be locked, whether the same is running or standing; or whoever locks or fastens the door or doors of any such car, so that the same can not be easily opened by such passenger; or whoever directs or orders the locking or fastening of any such car door, shall, on conviction, be fined not less than five dollars nor more than five hundred dollars.

Signals for Crossings.

SEC. 673. Whoever, having charge of a locomotive engine, or interurban electric car, fails or neglects when such engine or car is approaching any road-crossing to sound the whistle or, if not equipped with whistle, the gong, at a distance of not more than one hundred nor less than eighty rods from such crossing, shall, on conviction, be fined not less than ten dollars nor more than fifty dollars; and if any person is injured or killed by reason of such failure or neglect, the person so causing such injuries shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years; but nothing contained in this section or the preceding seven sections shall be so construed as to interfere with any ordinance or by-law that has been or may be passed by any city or town regulating the management or running of engines or trains within such city or town.

Railroads—Trainmen—Hours of Service.

SEC. 674. Any superintendent, train dispatcher, yard-master, foreman or other railway official who shall permit, exact, demand or require any engineer, motorman, fireman, conductor, brakeman, switchman, or other employe engaged in the movement of passenger or freight trains or electric cars, or in switching service in yards or railway stations, to remain on duty more than sixteen consecutive hours, unless in case of accident, wreck or

other unavoidable cause, without at least eight hours' rest and relief from all duty whatever, shall, on conviction, be fined not less than twenty dollars nor more than two hundred dollars.

False Claims.

SEC. 675. Whoever, knowing the same to be false or fraudulent, makes out or presents for payment or certifies as correct to the general assembly, or either house thereof, or to the auditor of state or other state officer, or to the county auditor, or the board of commissioners or other officer of any county, or to the treasurer, or other accounting officer of any city or town, or to the trustee or accounting officer of any civil or school township, or school city or town, any claim, bill, note, bond, account, pay roll or other evidence of indebtedness, false or fraudulent, for the purpose of procuring the allowance of the same or an order for the payment thereof, out of the treasury of said state, county, civil or school township, city or town; and whoever knowing the same to be false or fraudulent, receives payment of any such claim, account, bill, note, bond, pay roll, voucher or other evidence of indebtedness from the treasurer of state, or the treasurer or other paying officer of any county, civil or school township, city or town, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years and fined not less than ten dollars nor more than one thousand dollars.

Public Records—Altering.

SEC. 676. Whoever falsely makes or assists in making, defaces, destroys, alters, forges, counterfeits, prints, or photographs, or causes to be falsely made, defaced, destroyed, altered, forged, counterfeited, printed or photographed, any record or authentic matter of a public nature, deed, will, codicil, lease, bond, covenant, writing obligatory, bank bill or note, check, bill of exchange, or any acceptance or endorsement of any bill of exchange, promissory note for the payment of money or other property, or any post note, acquittance or receipt either for money or property, or any acquittance, release or discharge of any debt, account, action, suit, demand or other thing, real or personal, or any order, warrant or request for the payment of money, or any auditor's warrant, treasury note, county order, city order, endorsement of any promissory note, draft, or order or assignment of any bond, writing obligatory, or promissory note for money or property, or any order or draft for the payment of money or property, or any lawful brand on a tobacco leaf, bacon or pork cask, lard keg or barrel, salt barrel or hay bale, or any ticket, check, order, coupon receipt for fare or pass, printed, written, lithographed or engraved, issued by any railroad or other transportation company, or by the

manager, lessee, agent or receiver thereof, or any plat, draft or survey of land, or transfer or assurrance of money, stock, goods, chattels, or other property, whatever, or any letter of attorney, or any power of authority to receive money, or to receive and transfer stock or annuities, or to let, lease, dispose of, alien or convey any goods or chattels, lands or tenements, or other estate, real or personal, certificate of a justice of the peace or other public officer, or any other instrument in writing, with intent to defraud any person, body politic or corporate, or utters or publishes as true any such instrument or matter, knowing the same to be false, defaced, altered, forged, counterfeited, falsely printed or photographed, with intent to defraud any person, body politic or corporate shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, and fined not less than ten dollars nor more than one thousand dollars.

False Pretense.

SEC. 677. Whoever, with intent to defraud another, designedly by color of any false token or writing, obtains the signature of any person to any written instrument, or obtains from any person any money, tranfer, bond, bill, receipt, promissory note, draft, or check or thing of value, and whoever sells, barters or disposes of, or offers to sell, barter, or dispose of any transfer, bond, bill, receipt, promissory note, draft, or check or anything of value, knowing the signature of the maker, indorser or guarantor thereof to have been obtained by any false pretense, shall, on conviction, be imprisoned in the state prison not less than two years nor more than seven years, and fined not less than ten dollars nor more than one thousand dollars.

False Statement—Credit.

SEC. 678. Whoever, with intent to defraud, or by color or aid of a check, draft or order for the payment of money or the delivery of property, although no express representation is made in reference thereto, obtains from another any money or property, when the drawer or maker of such check, draft or order is not entitled to draw on the drawee for the sum specified therein, or to order the payment of the money or the delivery of the property, shall, on conviction, be fined not less than one hundred dollars nor more than five thousand dollars, to which may be added imprisonment in the state prison not less than one year nor more than five years.

Counterfeiting.

SEC. 679. Whoever forges or counterfeits any gold or silver coin, which shall be at the time current in this state, or utters or

tenders in payment any such forged or counterfeit coin, or any forged or counterfeit bank note, bill or treasury note, knowing the same to be forged or counterfeit, with intent to defraud any person, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, and fined not less than ten dollars nor more than one thousand dollars.

Counterfeit—Uttering.

SEC. 680. Whoever, with intent to defraud any person, gives, barters, sells or puts away forged or counterfeit gold or silver coin, which shall be at the time current in this state, or any bank note, or any draft or certificate or deposit, drawn on or by any bank, knowing the same to be forged or counterfeit, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years and fined not less than ten dollars nor more than one thousand dollars.

Counterfeit—Uttering to Circulate.

SEC. 681. Whoever gives, barters, sells, utters, publishes, or puts away, any forged or counterfeit gold or silver coin, which shall be at the time current or in circulation in this state, or any false, forged or counterfeit bank note, bill or draft, or certificate of deposit drawn on or by any bank, with intent to have the same put in circulation, knowing the same to be forged or counterfeit, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, and fined not less than ten dollars nor more than one thousand dollars.

Counterfeit—Possession.

SEC. 682. Whoever has in his possession any forged or counterfeit gold or silver coin, which shall be at the time current or in circulation in this state, or any false, forged or counterfeit bank note or bill, with intent to put or have the same put in circulation, and knowing the same to be forged or counterfeit, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, and fined not less than ten dollars nor more than one thousand dollars.

Counterfeiting Registered Label, Etc.

SEC. 683. Any person who shall knowingly and wilfully make, forge or counterfeit, or have in his possession, or buy, sell, offer for sale, or deal in any representation, likeness, similitude, copy or colorable imitation of any label, wrapper, mark, name, brand, stamp or device registered under provisions of the laws of this state, shall, on conviction, be imprisoned in the state prison not less than one year nor more than three years, or be fined not more than two thousand dollars and imprisoned in the county jail not more than six months.

Person Selling Goods with Counterfeit Label.

SEC. 684. Any person who shall have in his or her possession, or sell or offer to sell or trade any goods, wares, merchandise or other articles upon which he knows is placed or affixed any false, forged or spurious label, wrapper, mark, name, brand, stamp or device in likeness or imitation of one registered under the laws of this state, shall, on conviction, be imprisoned in the state prison not less than one year nor more than three years, or be fined not more than two thousand dollars and imprisoned in the county jail not more than six months.

Counterfeiting Registered Union Label, Etc.

SEC. 685. Any person not authorized to do so by the union or association on whose behalf the same is registered as provided by law, who shall knowingly take into, have, or keep in his possession any label, wrapper, mark, name, brand, stamp or device so registered, or who shall manufacture, sell, display or use the same, or who shall place the same upon any goods or merchandise of the same or similar class as that to which the label, wrapper, mark, name, brand, stamp or device is appropriated in the verified statement filed for registry, or who shall take into his possession, have, keep, offer for sale, sell, or dispose of any goods or merchandise of such class upon which he knows there is placed or displayed any such label, wrapper, mark, name, brand, stamp or device, without the authority of the union or association on whose behalf the same is so registered, shall, on conviction, be imprisoned in the state prison not less than one year nor more than three years, or fined not exceeding two thousand dollars and imprisoned in the county jail not exceeding six months.

Counterfeiting Private Label, Etc.

SEC. 686. Whoever, knowingly or wilfully, forges or counterfeits, or causes, or procures to be forged or counterfeited any representation, likeness, similitude, copy, or imitation of the private stamp, wrapper or label, usually affixed by any mechanic or manufacturer, on, or in the sale of any goods, wares or merchandise, with intent to deceive or defraud the purchaser or manufacturer of any goods, wares or merchandise whatsoever, shall, on conviction, be imprisoned in the county jail not less than ten days nor more than six months, or fined not less than ten dollars nor more than one hundred dollars.

Engraving Counterfeit Die for Label, Etc.

SEC. 687. Any person who shall knowingly or wilfully cast or engrave, or manufacture, or have in his possession, or buy, sell, or offer for sale, or deal in any die or dies, plate or plates,

brand or brands, engraving or engravings on wood, stone, metal, or other substances, molds or any false representations, likeness, copy or colorable imitation of any die, plate, brand or mold of any private trade-mark, label, brand, stamp, wrapper, engraving on paper or other substance, registered and recorded pursuant to law, shall, on conviction, be imprisoned in the state prison not less than one year nor more than two years, or be fined not less than one thousand dollars nor more than two thousand dollars.

Buying or Selling Counterfeit Private Label, Etc.

SEC. 688. Any person who shall knowingly and wilfully make, forge or counterfeit, or have in his possession, or buy, sell, offer for sale or deal in any representation, likeness, similitude, copy or colorable imitation of any private label, brand, stamp, wrapper, engraving, mold or trade-mark, registered and recorded pursuant to law, shall, on conviction, be imprisoned in the state prison not less than one year nor more than two years, or be fined not less than one thousand dollars nor more than two thousand dollars.

Corporation Selling Goods with Counterfeit Label.

SEC. 689. It shall be unlawful for any person, firm, corporation or voluntary association doing business in this state to have in his or its possession, or to sell, or offer for sale or trade, any goods, wares, merchandise or other article upon which he or it knows is placed or affixed a false, forged or spurious trade-mark, label, brand, stamp or wrapper in likeness or imitation of some trade-mark, label, brand, stamp or wrapper registered as provided for by law; and any such person, firm, corporation or voluntary association so having in his or its possession, or selling, or offering for sale or trade, any goods, wares or merchandise upon which he or it knows is placed or affixed a false, forged or spurious trade-mark, label, brand, stamp or wrapper in likeness or imitation of some trade-mark, label, brand, stamp or wrapper registered as aforesaid, shall, on conviction, be fined not less than fifty dollars nor more than two hundred dollars, or imprisoned in the county jail six months, or both.

Possession of Counterfeit Die, Etc., with Intent to Sell.

SEC. 690. Whoever has in his possession any die, plate, engraving, or printed label, stamp or wrapper, or any representation, likeness, similitude, copy or imitation of the private stamp, wrapper or label usually affixed by any mechanic or manufacturer to, and used by such mechanic or manufacturer on, or in the sale of, any goods, wares or merchandise, with intent to use or sell the said die, plate, engraving or printed stamp, label or wrapper,

for the purpose of aiding or assisting in any way whatever in vending any goods, wares or merchandise, in imitation of or intended to resemble and be sold for the goods, wares and merchandise of such mechanic or manufacturer, shall, on conviction, be imprisoned in the county jail not less than ten days nor more than six months, or be fined not less than ten dollars nor more than one hundred dollars.

Possession of Apparatus for Counterfeiting Coins.

SEC. 691. Whoever knowingly retains in his possession any die, plate or other apparatus made use of in forging or counterfeiting any gold or silver coin, which is or may be current or in circulation within this state, or in forging or counterfeiting bank notes or treasury notes, shall, on conviction, be imprisoned in the state prison not less than two years nor more than five years, and be fined not less than ten dollars nor more than one thousand dollars.

Vending Goods with Counterfeit Stamps of Maker.

SEC. 692. Whoever vends any goods, wares or merchandise, having thereon any forged or counterfeited stamp or label, imitating, resembling or purporting to be the stamp or label of any mechanic or manufacturer, knowing the same to be forged or counterfeited, and resembling or purporting to be an imitation of the stamp or label of such mechanic or manufacturer, without disclosing the fact to the purchaser, shall, on conviction, be imprisoned in the county jail not less than ten days nor more than six months, or fined not less than ten dollars nor more than one hundred dollars.

Acknowledgment—Affixing Name to Blank.

SEC. 693. If any justice of the peace, notary public, or other officer authorized to administer oaths or take acknowledgments, affixes his name to any blank form of affidavit or certificate of acknowledgment of any instrument proper to be acknowledged, and delivers the same so signed to any other person with intent that such blank form shall be afterwards filled up and used as an affidavit or acknowledgment, such justice, notary public or other officer as aforesaid, and such person so filling up or using such affidavit or acknowledgment, shall, on conviction, be imprisoned in the state prison not less than two years nor more than fourteen years, and be fined not less than ten dollars nor more than one thousand dollars.

Weights and Measures—Shortage.

SEC. 694. Whoever knowingly sells or directs or permits any person in his employ to sell any property, and makes or gives any

false or short weight or measure of such property, and any person owning, or having charge of scales, measures or steelyards, for the purpose of weighing or measuring any property, who knowingly reports any false or untrue weight or measure, whereby any person may be defrauded or injured, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Weights—Coal.

SEC. 695. Whoever knowingly sells and delivers any coal except at the weight and measure prescribed by law, shall, on conviction, be fined not less than five dollars nor more than one hundred dollars.

Measures—Gas Meter.

SEC. 696. Whoever knowingly constructs, or uses or furnishes to gas consumers to be used, any false meter provided for measuring and registering the quantity of gas consumed by any person under a contract with any gas company, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars.

Weights and Measures—Standard.

SEC. 697. The avoirdupois weight of beef or pork in each barrel shall be two hundred pounds; and of flour in each barrel, one hundred and ninety-six pounds; of sorghum molasses, eleven pounds to the gallon; of hay or straw, two thousand pounds shall be given and taken for a ton. A bushel of the respective articles hereinafter mentioned shall mean the amount of weight, avoirdupois, in this section specified as follows: Of wheat, sixty pounds; of oats, thirty-two pounds; of buckwheat, fifty pounds; of beans, sixty pounds; of potatoes, sixty pounds; of clover seed, sixty pounds; of hemp seed, forty-four pounds; of blue grass seed, fourteen pounds; of castor beans, forty-six pounds; of dried peaches, thirty-three pounds; of dried apples, twenty-five pounds; of onions, forty-eight pounds; of salt, fifty pounds; of mineral coal, mined within this state, or mined without and sold within this state, eighty pounds; of timothy seed, forty-five pounds; of rye, fifty-six pounds; of barley, forty-eight pounds; of corn meal, fifty pounds; of cranberries, thirty-three pounds; of millet seed, fifty pounds; of orchard grass seed, fourteen pounds; of malt rye, thirty-five pounds; of middlings, fine, forty pounds; of middlings, coarse, thirty pounds; of osage orange, thirty-three pounds; of parsnips, fifty-five pounds; of sweet potatoes, fifty-five pounds; of turnips, fifty-five pounds; of pop-corn, fifty-six pounds; of shelled corn, fifty-six pounds; of corn in the ear, seventy pounds, until the first of December next after it is grown, and after that date, sixty-eight pounds.

Whoever, when buying or selling by weight, buys or sells any of the articles or commodities enumerated in this section, at a measure differing in weight from the standard of measures therein prescribed and fixed, shall, on conviction, be fined not less than one dollar nor more than twenty-five dollars.

Wheat—Inspection—Weight—Grade.

SEC. 698. It shall be unlawful for any person, commission merchant, miller, dealer, grain inspector, corporation, company, firm or association, either by himself, itself, officer, agent or employe, when purchasing wheat or receiving it in barter or exchange for flour or otherwise, from the owner, his agent or employe, to use for the purpose of testing or determining the weight, grade, milling or market value of wheat, any measure other than the standard half-bushel measure furnished this state by the United States; and the use of any fractional part of said standard half-bushel measure for such purpose will be a violation of this section. It shall likewise be unlawful to use anything other than a straight stick with the edges square for leveling the wheat in said half-bushel measure, for the purpose of testing the weight, grade, milling or market value of wheat: *Provided,* That the provisions of this section shall not apply to wheat or grain that is inspected or graded by the car load under the regulations of any board of trade. Any person violating any of the provisions of this section, shall, on conviction, be fined not less than ten dollars nor more than one hundred dollars, to which maye be added imprisonment in the county jail not exceeding six months.

Repeal.

SEC. 699. All laws within the purview of this act are hereby repealed; but this repeal shall not affect any prosecutions pending or offenses heretofore committed under existing laws, and such prosecutions and offenses shall be continued and prosecuted to a final determination, as if this act had not passed; nor shall this repeal affect the enforcement of any fine or penalty or other punishment provided as a punishment for the violation of any civil statute; nor shall this act be construed to repeal any act passed at this session of the general assembly.

Chapter 170.

AN ACT creating and defining the sixty-first judicial circuit, fixing the times of holding court in said circuit and prescribing the length of terms therein, providing for the appointment and election of judge and prosecuting attorney therein, fixing the time and manner of returning process therein, concluding trials and otherwise regulating the manner of holding court in said circuit, repealing all laws in conflict therewith, and declaring an emergency.

[S. 72. Approved March 11, 1905.]

Sixty-first Judicial Circuit—Jackson and Scott—Terms, Etc.

Section 1. *Be it enacted by the general assembly of the State of Indiana,* That the counties of Jackson and Scott shall constitute the sixty-first judicial circuit and the terms of court in said counties shall be held as follows, to wit: In the county of Jackson the terms of court shall begin respectively on the second Monday in September, the fourth Monday in November, the second Monday in February and fourth Monday in April, and shall continue six weeks at each of said terms, if the business in said county shall require such length of term. And in the county of Scott the terms of court shall begin respectively on the fourth Monday in October, the second Monday in January, the fourth Monday in March and the second Monday in June, and shall continue four weeks at each of said terms if the business in said county shall require such length of term.

Governor—Appointments.

Sec. 2. That immediately upon the taking effect of this act the governor is authorized and directed to appoint a judge and a prosecuting attorney for said judicial circuit, each of whom shall at once, after qualifying as by law provided, enter upon the duties of his office and shall hold office until the next general election or until their successors are elected and qualified: *Provided, however,* That if at the time of such appointment and qualification the court shall be in session in either Jackson or Scott counties pursuant to law then and in such case any such case any [sic] such term of court shall be completed and finished by the judge and prosecuting attorney who shall be at such time acting and performing their official duties in such county or counties. And the judge who shall have presided at the trial of any cause or causes in either of said counties prior to the actual assumption of official duties by the judge appointed under this act shall determine motions for a new trial, settle and sign all bills of exceptions in any such cause or causes and in all respects fully and completely finish and terminate any such cause or causes,

but if any such cause or causes shall be appealed and thereafter returned to such court for any further proceedings, then and in such case such further proceedings shall be conducted by the regular judge who may then be presiding therein.

Writs Returnable.

SEC. 3. That all writs, summons, recognizances, publications, rules, orders or process of whatever kind issued out of any circuit court of any county embraced in this act and made returnable to any term of court, as heretofore fixed by law, shall be deemed and held to be returnable to the first term of such courts as are provided for by this act.

Repeal.

SEC. 4. That all laws and parts of laws in conflict herewith are hereby repealed, but nothing herein shall affect the time for holding court in the counties of Jennings, Ripley, Orange and Washington as now fixed by law.

Emergency.

SEC. 5. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force and effect from and after its passage.

CHAPTER 171.

HOUSE JOINT RESOLUTION No. 2.

A JOINT RESOLUTION to amend section twenty-one (21) of article seven (7) of the constitution of the State of Indiana.

[H. RES. 2. APPROVED MARCH 4, 1905.]

Proposed Amendment.

SECTION 1. *Be it resolved by the general assembly of the State of Indiana,* That the following proposed amendment to the constitution of said state be and the same is now agreed to and referred to the electors of the State of Indiana at the next general election:

Admission to Bar.

Section 21. The general assembly shall, by law, prescribe what qualifications shall be necessary for admission to practice law in all courts of justice.

Chapter 172.

SENATE JOINT RESOLUTION No. 5.

A JOINT RESOLUTION concerning a tuberculosis commission.

[S. Res. 5. Approved March 6, 1905.]

Preamble.

Whereas, Scientific research has demonstrated that consumption is a preventable disease, and, in its early stages, curable; and

Whereas, The consumptive deaths in Indiana in 1904 numbered 1,948 males, 2,791 females, invading over 3,000 homes, making over 1,000 widows and over 1,800 orphans under twelve years of age; and

Whereas, It is a duty of the state to protect the life, health and happiness of its people; therefore, be it

Tuberculosis Commission.

Resolved, By the general assembly of the State of Indiana, That a commission of five persons be appointed to investigate the need of a hospital for the treatment of tuberculosis in this state and the work of such institutions in other states; that said commission be appointed by the governor and be composed of five members, two of whom shall be members of the senate holding over, two of whom shall be members of the house of representatives, and the fifth a practicing physician of prominence in the state. Said commission shall serve until the close of the next session of the general assembly to which it shall report, and that the members shall be paid their actual expenses out of the state treasury.

CERTIFICATE.

STATE OF INDIANA,
OFFICE OF SECRETARY OF STATE, } ss:

I, DANIEL E. STORMS, Secretary of State of the State of Indiana, do hereby certify that I have compared the foregoing printed Acts with the enrolled bills from which they were taken, now on file in my office, and have found them correctly printed. Words included in brackets [thus], nor the word [sic], used to note a literal quotation, do not appear in the Enrolled Acts, but were by me inserted in the printed copies thereof to aid in interpreting the meaning.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the State of Indiana, at the city of Indianapolis, this 15th day of March, A. D. 1905.

[SEAL]

DANIEL E. STORMS,
Secretary of State.

DEPARTMENT OF STATE.

DANIEL E. STORMS,
Secretary of State.

FRANK I. GRUBBS,
Deputy Secretary of State.

RICHARD T. BURRELL,
Foreign Corporations Clerk.

WILLIAM T. MAHAN,
Clerk.

LOURETTA LESLEY,
MARGARET A. WADE,
Stenographers.

THOMAS J. CARTER,
Clerk of the Bureau of Printing and Binding.

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11	AN ACT to legalize certain sales of real estate made by county auditors of lands bought in by such auditors on account of the school funds, and declaring an emergency	H. 72	12

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12	AN ACT fixing the time of holding courts in the third judicial circuit of Indiana, prescribing the length of terms thereof, providing for the return of process therein, repealing all laws in conflict therewith	H. 25	13
13	AN ACT to amend section one (1) of an act entitled "An act to legalize the title of real estate in counties wherein defects in the chain of title appears by reason of the destruction of the deed records of such counties by fire prior to the year 1870, and declaring an emergency," approved March 9, 1903.....	H. 89	13
14	AN ACT to legalize the incorporation of the town of Lapel, Madison county, Indiana, the election and qualification of its board of trustees and other officers, and to legalize each and all of the acts of said board, and of each and all of said officers of said town, and to legalize and make valid each and all acts, orders, ordinances, resolutions, street and sidewalk assessments, by-laws, contracts, minutes and the proceedings of the board of trustees of said town, assessments and the collections of taxes and other matters connected therewith, and declaring an emergency	S. 14	14
15	AN ACT concerning the payment of taxes assessed upon omitted property and providing the manner in which the costs of collecting same shall be paid, and declaring an emergency.....	S. 47	15
16	AN ACT to amend the first section of an act to enable counties to receive donations of buildings and grounds for high school purposes, and to provide for the maintenance of the same, and to declare an emergency, in force March 11, 1889.....	S. 71	16
17	AN ACT to amend section two of an act entitled "An act to amend an act making it unlawful to give, barter or sell tobacco to certain children or to others for their use, or to induce said children to use the same, and providing penalties for violation thereof," approved February 9, 1893, and declaring an emergency	S. 85	16
18	AN ACT for the relief of the Indiana state board of agriculture, authorizing it to borrow money to pay off its existing indebtedness and for other purposes, and to repeal so much of an act concerning the state board of agriculture, approved April 14, 1881, as is now in force, being sections 2796, 2797 and 2798 in Burns' annotated Indiana statutes of the revision of 1901, and other matters properly connected therewith; and providing for an emergency.....	S. 114	17

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19	AN ACT to legalize the incorporation of the town of Upland, Grant county, Indiana, the election and qualification of its board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes and proceedings of the board of trustees of said town, assessment and collection of taxes, and other matters connected therewith, and declaring an emergency	S. 121	19
20	AN ACT providing for the deposit of cash or certified check in lieu of bond in civil, criminal or probate proceedings	S. 137	20
21	AN ACT to legalize the incorporation of the town of Shirley, Hancock and Henry counties, State of Indiana, and to legalize and render valid the election, qualification and official acts of each and all the officers of said town, including the present officers thereof, and to legalize and render valid all by-laws, ordinances, resolutions, tax levies, street and sewer assessments, contracts and other official acts heretofore entered into in good faith by the several boards of trustees of said town, including the present board of trustees of said town, and declaring an emergency	H. 109	20
22	AN ACT to legalize the incorporation of the town of Griffin, Posey county, Indiana, the election and qualification of the board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes, and the proceedings of the board of trustees of said town, assessments and collection of taxes and other matters connected therewith, and declaring an emergency	H. 191	21
23	AN ACT to legalize the incorporation of the town of Riverside City, Delaware county, State of Indiana, the election and qualification of its board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes and proceedings of the board of trustees of said town, assessment and collection of taxes, and other matters connected therewith	H. 218	22
24	AN ACT to legalize the incorporation of the town of Fulton, in the county of Fulton, in the State of Indiana, the election and qualifications of its board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes, and the proceedings of the board of trustees of said town, the assessment and collection of taxes and other matters connected therewith, and declaring an emergency	H. 278	22

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25	AN ACT entitled an act empowering common councils of cities to convey cemeteries, and providing for the management and control thereof, and declaring an emergency	S. 7	23
26	AN ACT concerning replevin suits before justices of the peace and mayors	S. 87	24
27	AN ACT to exempt from taxation the mortgages, notes and bonds hereafter issued by the Indiana state board of agriculture	S. 115	25
28	AN ACT in regard to the loaning of school funds and declaring an emergency	S. 124	25
29	AN ACT entitled an act providing for the location and erection of an additional hospital for the insane and providing for the management and maintenance thereof	S. 147	26
30	AN ACT to fix the time for holding courts in the twenty-eighth judicial circuit, composed of the counties of Wells and Blackford, repealing all laws in conflict therewith, and declaring an emergency	S. 209	32
31	AN ACT regulating township business, and to provide for the funding of township indebtedness	H. 198	33
32	AN ACT providing for the levy of an annual tax for a state common school tuition fund and providing for its apportionment and distribution, and declaring an emergency	H. 3	34
33	AN ACT to exempt real estate and personal property of Greek letter fraternities connected with a college or other institution of learning from taxation, and repealing all laws in conflict therewith	H. 125	36
34	AN ACT to amend sections two (2) and four (4) of an act entitled "An act authorizing the establishment and maintenance of hospitals by boards of county commissioners in their respective counties, either with or without the aid of hospital associations, and authorizing such boards to receive and accept aid and donations from them, and providing for the management and control thereof, and the manner of raising funds to pay the expense of the same," approved March 4, 1903, and authorizing such boards to lease lands to hospital associations for hospital purposes, and declaring an emergency	H. 156	37

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35	AN ACT fixing the terms of court in the fifteenth judicial circuit, composed of the counties of Morgan and Owen, repealing all laws in conflict therewith and declaring an emergency.....	H.199	39
36	AN ACT concerning the settlement of decedents' estates	H.210	40
37	AN ACT to protect certain birds of the pheasant kind in the State of Indiana, repealing an act to protect certain birds of the pheasant kind in the State of Indiana, approved February 17, 1899, and declaring an emergency.....	H.221	41
38	AN ACT to establish a state laboratory of hygiene, providing an appropriation for its establishment and maintenance, forbidding the teaching of adulteration, prescribing penalties, repealing all conflicting acts, and declaring an emergency.....	H. 32	42
39	AN ACT to amend section 3 of an act entitled "An act concerning the employment of the convicts of the state prison, regulating the hours of the same, how said labor may be employed, when contracts of the same shall expire, making an appropriation for the purchase of machinery, tools and other appliances necessary for the state to employ such labor on its own account, known as the public account system, providing for the payment of all officers, superintendents and guards of said prison, and declaring an emergency," approved February 10, 1899, and declaring an emergency.....	S. 93	44
40	AN ACT providing for the extension and re-extension of time within which to file bill of exceptions.....	H.111	45
41	AN ACT authorizing railroad[s] companies heretofore organized under the general railroad laws and which have availed themselves of the benefit of the act of March 9, 1903, authorizing such companies to operate as interurban electric or street railways, to haul freight by steam.....	H 265	45
42	AN ACT to authorize the admission of war nurses as members of the Indiana state soldiers' home.....	S. 5	46
43	AN ACT to provide for the erection of a monument in memory of Oliver P. Morton, and appropriating ing money therefor, and declaring an emergency....	S. 65	46

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44	AN ACT to amend sections one, two and three of an act to amend sections two (2), eleven (11) and forty-two (42) of an act of the general assembly entitled "An act concerning the incorporation and government of cities having more than fifty thousand (50,000) and less than one hundred thousand (100,000) population according to the last preceding United States census and matters connected therewith and declaring an emergency," approved March 6, 1901, and declaring an emergency	S. 192	50
45	AN ACT to amend section 3 of an act entitled "An act providing for a juvenile court, providing for the appointment of probation officers, outlining their duties and specifying their compensation; providing a lawful method of procedure against juvenile delinquents, specifying places for their temporary and permanent detention, and the compensation for their care, providing for time and place of trial, providing that no destitute girl shall be sent to the industrial school for girls, providing for the approval of the board of state charities in certain contingencies; repealing laws inconsistent herewith, and declaring an emergency," approved March 10, 1903, and declaring an emergency	S. 144	51
46	AN ACT requiring the registration of all trained nurses, providing a board of registration and examination, fixing the number, duties and qualifications of said board and providing for the registering of nurses, providing penalties for violation of said act	H. 15	55
47	AN ACT relative to the liability of common carriers and prescribing the practice and procedure and fixing the burden of proof in certain cases	H. 67	58
48	AN ACT concerning proceedings in the exercise of eminent domain	S. 78	59
49	AN ACT providing for protection to forests and repealing an act entitled "an act for the encouragement of forestry," which became a law without the governor's signature on March the 8, 1899, and printed at page 570 of the published acts of that year	H. 246	64
50	AN ACT to revise the laws in relation to coal mines and subjects relating thereto, and providing for the health and safety of persons employed therein	H. 153	65

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51	AN ACT to amend section 1 of "an act authorizing hydraulic companies to appropriate lands to their use upon paying the assessed value thereof, and providing for such assessment," approved March 9, 1867.	H. 302	81
52	AN ACT to regulate and in certain cases to prohibit the manufacture, sale, keeping, keeping for sale, owning or giving away of cigarettes, cigarette paper, cigarette wrappers and other substitute for the same, providing penalties for the violation thereof, and repealing all laws in conflict therewith.....	S. 51	82
53	AN ACT to provide for the creation of a railroad commission, the appointment and compensation of the members thereof, prescribing the powers and duties of such commission and its members, prescribing certain duties and obligations of railroad companies, express companies and other common carriers, defining certain misdemeanors and prescribing penalties, providing for the collection of penalties by civil action from railroad companies and other common carriers by the state in cases therein provided for, appropriating money to carry out its provisions, providing for a review of the decisions of the commission and conferring jurisdiction on certain courts to hear and determine such proceedings, and repealing all laws and parts of laws in conflict therewith..	S. 22	83
54	AN ACT to amend section 1 of an act entitled "An act concerning the conveyance of land by husband and wife where either is insane," approved March 9, 1901	H. 85	102
55	AN ACT to legalize the record of conveyances, and other instruments acknowledged before justices of the peace and defectively certified.....	H. 170	103
56	AN ACT to provide for the assessment for taxation of the stock of banks organized under the laws of the United States, and declaring an emergency.....	H. 178	104
57	AN ACT concerning the equalization of assessments of real and personal property by the state board of tax commissioners and repealing all laws in conflict therewith	H. 50	105
58	AN ACT to amend section 13 of an act entitled "An act authorizing and providing for the separation of the Indiana industrial school for girls from the woman's prison, for the purchase of land and construction of buildings for the industrial school for girls, for		

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	appointing commissioners and making appropriations therefor, defining the plan to be pursued, authorizing the appointment of a board of managers and a superintendent for the girls' industrial school, repealing all laws in conflict therewith and declaring an emergency," approved March 11, 1903	S. 64	106
59	AN ACT concerning the conveyance of real estate and the transfer of personal property by school cities of over one hundred thousand population	S. 138	107
60	AN ACT providing for the use for park purposes of lands owned by counties, under sections 7904, 7905, 7906, of Burns' revised statutes for 1901, and which lands have been abandoned for fair grounds purposes; and fixing conditions and restrictions under which such lands may be used for park purposes, and giving cities authority to accept and use and maintain public parks upon such lands	S. 285	108
61	AN ACT to amend section 1 of an act entitled "An act supplemental and amendatory to an act to amend section 24 of an act entitled 'An act fixing the fees, salaries, duties and compensation of the officers and persons named therein, prohibiting the violations of its provisions, and repealing certain laws, approved March 12, 1875, and declaring an emergency,' approved February 22, 1899, and declaring an emergency," approved March 9, 1903, and declaring an emergency	H. 135	110
62	AN ACT to legalize the incorporation of the town of Plainfield, in Hendricks county, in the State of Indiana, and to legalize the election and qualification of each and all of the officers and of the board of trustees of said town, and to legalize each and all of the acts of said board, and of each and all of said officers of said town, and to legalize and make valid each and all acts, by-laws, ordinances, resolutions, rules, regulations, contracts and minutes adopted and made by said board of trustees, and declaring an emergency	H. 248	111
63	AN ACT to legalize the incorporation of the town of Bryant, Jay county, Indiana, the election and qualification and official acts of each and all the officers of said town, including the present officers thereof, and to legalize and render valid all by-laws, ordinances, resolutions, tax levies, contracts and other official acts heretofore made or entered into, in good faith, by the several boards of trustees of said town, including the present board of trustees of said town, and declaring an emergency	H. 326	111

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64	AN ACT concerning reports to the governor of the State of Indiana from state institutions, offices, boards, bureaus, societies, commissions or other organizations, and the furnishing of plans and estimates for improvements	H. 350	112
65	AN ACT concerning the admission of mutual fire insurance companies of other states to do business in the State of Indiana, repealing all laws in conflict herewith, and declaring an emergency	H. 2	113
66	AN ACT authorizing the organization of associations by bodies or lodges of Free and Accepted Masons or other ritualistic orders for the acquirement of real estate on which to construct and maintain buildings for certain purposes, providing for election of directors and officers, and issue and method of transfer of stock, the manner of payment for stock, empowering such associations to borrow money and sell bonds, and to do all matters connected therewith, legalizing such action heretofore taken, and declaring an emergency	H. 331	114
67	AN ACT to fix the number of senators and representatives to the general assembly of the State of Indiana, and to apportion the same among the several counties of the state	S. 339	117
68	AN ACT defining the twenty-first and sixty-first judicial circuits of the State of Indiana, and fixing the time for holding courts therein, and other matters connected therewith	H. 233	119
69	AN ACT to amend section one (1) of an act entitled "An act to amend section one (1) of an act entitled 'an act to provide for the appropriation of real estate for cemetery purposes, approved March 9, 1889, and declaring an emergency,' approved March 11, 1895, and legalizing recording of articles of association of cemetery societies, and declaring an emergency," approved March 8, 1897, and declaring an emergency	H. 110	120
70	AN ACT to amend section 24 of an act entitled "An act concerning county business," approved March 3, 1899	H. 217	121

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71	AN ACT to legalize and render valid all ordinances, amendments thereof, resolutions and contracts heretofore passed or entered into, in good faith, by boards of trustees of incorporated towns of the State of Indiana, which were required by law to be published or posted and which were not published or posted, and all acts done in pursuance and by virtue thereof, in good faith, and declaring an emergency..	H. 317	121
72	AN ACT to provide a seal for justices of the peace and for the better authentication of certain written instruments	H. 323	122
73	AN ACT providing for primary elections, repealing all laws in conflict therewith, and declaring an emergency	H. 340	122
74	AN ACT to amend an act entitled an act to prevent any person from unlawfully wearing the badge of the Grand Army of the Republic, Union Veterans, Union Sons of Veterans or Military Order of the Loyal Legion of the State of Indiana, approved February 26, 1891, and repealing all laws in conflict therewith	H. 353	127
75	AN ACT authorizing the attorney-general to employ assistants to assist him in certain cases, and to provide for their compensation and payment thereof, and declaring an emergency.....	S. 170	128
76	AN ACT relating to the abolition of grade crossings at the intersections of steam railroads and streets in cities having a population of not less than forty-three thousand nor more than forty-nine thousand, and providing proceedings for that purpose upon the initiative of the city, prescribing the manner and course of those proceedings, the apportioning of the doing and expense of the work, and authorizing the levy and collection of taxes for that purpose.....	S. 283	129
77	AN ACT giving boards of park commissioners power and authority to permit the use of a reasonable portion of any public park in any city or town for Chautauqua assembly purposes, and regulating matters connected therewith.....	S. 355	140
78	AN ACT entitled an act to amend section seven (7) of an act entitled "An act concerning cruelty to animals, providing penalties against persons who neglect or cruelly treat the same, conferring powers on the officers and members of societies organized for the purpose of preventing such acts of cruelty, and repealing all laws in conflict with this act," approved March 11, 1889.....	S. 97	141

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79	AN ACT for the advancement of agriculture; providing for research and investigation in connection with the production of farm products and stock raising, and making an annual appropriation therefor.....	S. 191	142
80	AN ACT to legalize the incorporation of the town of Milltown, Crawford county, Indiana; the election and qualification of its board of trustees and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes and the proceedings of the board of trustees of said town.....	S. 318	143
81	AN ACT to amend section one (1) of an act entitled "An act to provide for the public printing, binding, and stationery, and repealing all laws in conflict therewith, and declaring an emergency, approved April 13, 1895 [1885].".....	S. 52	143
82	AN ACT to provide for the alteration of steam railroad grade crossings and to secure the depression or elevation of steam railroad tracks where the same cross streets or other highways in cities of more than one hundred thousand population according to the last preceding United States census, and authorizing the opening, change and vacation of streets and other highways and change of grades thereof in connection therewith; providing for the payment of the cost of such improvement by railroad companies, street railway companies, and the city and county in which such city is located, and incorporated towns lying within and surrounded by the corporate limits of such city, and declaring an emergency....	H. 145	144
83	AN ACT authorizing any university or college organized or existing as a corporation under any special law, or special charter, having a board of directors, and having capital stock, to provide by by-law or resolution that a certain number of the members of its board shall be members of any church or religious denomination as designated by such by-law or resolution, and declaring an emergency.....	H. 318	150
84	AN ACT to legalize the incorporation of the town of Galveston, Cass county, Indiana, the election and qualification of its board of trustees, and other officers, and all acts, orders, ordinances, resolutions, by-laws, minutes and the proceedings of the board of trustees of said town, assessments and collection of taxes and other matters connected therewith, and declaring an emergency.....	H. 342	151

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85	AN ACT disqualifying certain persons from acting as jurors in suits in the courts of justice of the peace, mayors of cities and in courts presided over by any city judge	H. 409	151
86	AN ACT entitled an act to legalize special elections heretofore held for authorizing the improvement of county and township roads in any county in this state having a population, according to the last preceding census of the United States of America, of not more than 30,000, and to legalize contracts heretofore made for the construction of any such improvement, and to legalize and make valid any and all county bonds heretofore executed or to be executed on account of any such improvement authorized by any such special election, and to legalize all acts of the board of county commissioners in relation to any such election, contract and bonds, and all acts of the board of county commissioners in relation to the assessment of taxes for the construction of any road authorized by any such special election, and declaring an emergency	H 425	152
87	AN ACT concerning highways located on abandoned railroad right of ways, and providing for the repair of the same as free gravel roads	S. 26	153
88	AN ACT providing for the drawing, summoning and impaneling of juries from adjoining counties in certain criminal cases, and declaring an emergency	S. 104	153
89	AN ACT to amend sections eighteen (18) and twenty-three (23) of an act entitled "An act concerning common schools in cities having more than one hundred thousand population, providing penalties for the violation of the provisions thereof, and declaring an emergency," approved March 4, 1899, and also to amend section one of an act amendatory of section five (5) of the act last named, said amendatory act being entitled "An act to amend section five of an act entitled 'An act concerning common schools in cities having more than one hundred thousand population, providing penalties for the violation of the provisions thereof, and declaring an emergency,' approved March 4, 1899, and declaring an emergency," approved March 12, 1901, and declaring an emergency	S. 134	15
90	AN ACT to amend section 2 of an act entitled "An act concerning libraries, providing for the establishment of traveling libraries and township libraries, providing for the appointment of officers for the control		

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	and management of such libraries, providing for the levy, collection and distribution of taxes for township libraries, providing for the appropriation and distribution of certain funds, repealing all laws in conflict therewith, and declaring an emergency," approved February 24, 1899, and repealing all laws in conflict therewith.....	S. 140	157
91	AN ACT providing for the management, maintainance and taking care of public or private cemeteries.....	S. 181	158
92	AN ACT for the relief of Samuel S. Eash, of Lagrange county, Indiana, authorizing and directing the governor to issue to him a patent to certain real estate, and relinquishing the claims of the State of Indiana to said real estate and declaring an emergency.....	S. 210	159
93	AN ACT to authorize the board of commissioners of the county of Wayne to lay off and plat certain real estate and to sell and convey the same, and providing for the appraisement thereof, and declaring an emergency	S. 261	161
94	AN ACT concerning libraries in cities having a population of more than fifty thousand (50,000) and less than one hundred thousand (100,000), according to the last preceding United States census, and providing for the levy of a tax in aid of the same and matters connected therewith, repealing all laws in conflict herewith and declaring an emergency.....	H. 134	162
95	AN ACT to amend section 1 of an act to amend section thirteen (13) of an act entitled "An act further regulating the furnishing of books for the use in the common schools of the State of Indiana, authorizing township trustees and school boards in certain instances to sell such books to merchants and dealers, providing for the revision of such books at the cost of the contractor when deemed necessary by the state board of school book commissioners, and their continuance in use when so revised, providing for the introduction of an intermediate grammar or language lessons if deemed necessary by such board, prescribing the duties of school officers, dealers and contractors in such books, providing penalties for the violation thereof, empowering said board to require new bonds of contractors in certain cases, making an appropriation to carry out the provisions of the act, and declaring an emergency," approved February 28, 1893, approved March 11, 1901, repealing all laws in conflict therewith and declaring an emergency.....	H. 21	163

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96	AN ACT to regulate the manner of appointing special judges to try cases in the circuit and superior courts of this state	H. 95	164
97	AN ACT to repeal section seven of an act entitled "An act to amend sections three, four, seven, eleven, thirteen and sixteen and to repeal section six of an act for the better protection and preservation of game of the State of Indiana, requiring certain persons to take out license to hunt, creating a fund for the better protection and preservation of game and fish, providing penalties for a violation of this act or any of its provisions, regulating matters properly connected therewith, repealing conflicting laws and declaring an emergency," approved March 11, 1901, adding a supplemental section thereto making it unlawful to hunt with ferrets, and providing a penalty for violating such section, repealing all laws and parts of laws in conflict herewith, and declaring an emergency	H.124	164
98	AN ACT regulating the practice of veterinary medicine and surgery, providing for the issuance of licenses to practice, providing for the appointment of a state board of veterinary medical examiners, and defining their duties, defining certain misdemeanors and providing penalties, and providing that only licensed practicing veterinarians may be appointed to certain offices, and repealing all laws in conflict therewith and a certain act therein specified	H.267	165
99	AN ACT regulating public dance halls, and prescribing the penalty for violation thereof	H.310	171
100	AN ACT to amend section one (1) of an act entitled "An act entitled an act concerning the construction of free gravel, stone or other macadamized roads, and for the payment of costs thereof and their maintenance, and declaring an emergency," approved March 9, 1903, and declaring an emergency	H.334	171
101	AN ACT to amend section one of an act entitled "An act to provide for the better collection and distribution of state publications and defining certain duties of the board of commissioners of public printing, binding and stationery, and prescribing certain duties of the state librarian," approved March 3, 1899.	H.363	173
102	AN ACT to permit county fairs, agricultural and horticultural societies operating under a state charter to issue bonds for improvements of grounds and defining purpose and limitations of issue, and repealing all laws in conflict with this act	H.379	173

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103	AN ACT concerning the disposition and custody of persons who become insane after conviction for crime, providing how such insanity shall be determined, and providing by whom the costs and expenses of such proceeding shall be paid	H. 388	174
104	AN ACT authorizing boards of county commissioners and county councils to appropriate and pay money in aid of agricultural fairs	H. 405	175
105	AN ACT to amend sections 1 and 4 of an act entitled "An act levying an annual state tax for the purpose of raising revenue for the general fund, benevolent and reformatory institution fund, the school revenue for tuition fund and state debt sinking fund of the state treasury; providing for the application of any unappropriated balance in the general fund to the payment of the principal of the public debt and for transferring from the benevolent institution fund to the general fund under conditions named, repealing all conflicting laws and declaring an emergency," approved March 11, 1895, repealing all conflicting laws, and declaring an emergency	H. 429	176
106	AN ACT entitled "An act to authorize the governor of the State of Indiana to issue patents for certain Michigan road lands," in this state	H. 432	178
107	AN ACT regulating the labor of the inmates of the Indiana reformatory on state account, providing for the schooling and the training of the inmates, providing for trades schools, the utilization of the inmates' labor for state account and the disposition of all articles made in such trades schools or on state account, providing that state institutions and political divisions of the state shall purchase certain articles from the management of the reformatory, and providing the necessary appropriation as well as certain other matters relating thereto, and providing penalties therefor	S. 13	178
108	AN ACT to amend section twenty-two (22) of an act entitled "An act for the incorporation of life insurance companies on either the stock or the mutual plan, defining their powers and prescribing their duties and the duties of certain officers in connection therewith, providing penalties for the violation of this act, and declaring an emergency," approved February 10, 1899, and being chapter twenty-eight (28) of the published laws passed by the sixty-first regular session of the general assembly of the State of Indiana, and declaring an emergency	S. 50	181
109	AN ACT to regulate the business of banking by individuals, partnerships and unincorporated persons	S. 81	182

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110	AN ACT to amend section 1 of an act entitled "An act exempting from taxation the property of cemeteries organized under the laws of this state upon a basis which prevents the corporation from deriving therefrom pecuniary benefits or profits," approved February 20, 1895	S. 91	185
111	AN ACT concerning the maintenance, repair and protection of levees, and providing penalties for violation thereof, and declaring an emergency	S. 95	186
112	AN ACT to amend sections 1, 2, 5, 7, 8, 9 and 10 of an act entitled "An act to establish a state board of embalmers; to provide a system of examination, registration and licensing the embalmers; to provide for the better protection of life and health; to prevent the spread of infectious and contagious diseases in the state; to legalize licenses issued to embalmers by the state board of health previous to the enactment of this statute, and to impose penalties for the violation of its provisions, and declaring an emergency." (H. 456, approved March 12, 1901.)	S. 118	187
113	AN ACT concerning elections	S. 131	189
114	AN ACT to amend section 2 of an act entitled "An act providing for the discharge of prisoners from the Indiana reformatory and the Indiana state prison, making an appropriation to carry the same into effect, repealing all laws in conflict therewith and declaring an emergency," approved February 7, 1899, and declaring an emergency	S. 132	193
115	AN ACT in regard to the state board of medical registration and examination and concerning the eligibility to examination before such board	S. 136	194
116	AN ACT authorizing any city having a population of not less than three thousand three hundred nor more than three thousand four hundred and five, which has heretofore contracted, or may hereafter contract, with any person, firm or corporation for supplying said city with pure water or for the lighting of any of the streets or public places of such city with electric lights, or where any such city shall hereafter purchase or has heretofore purchased any waterworks system or electric light plant, or both, located within such city and desires to use public fire hydrants or electric lights, or both, to levy and collect an annual specific tax of not more than eighty cents on each one hundred dollars' worth of taxable property in said city with which to pay said contract price, or to pay the cost of maintaining public fire hydrants for fire protection and electricity for street lights in such city, and declaring an emergency	S. 130	195

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117	AN ACT fixing the times of holding court in the fifty-seventh judicial circuit, composed of the counties of Dubois and Pike, and repealing all laws in conflict therewith and declaring an emergency.....	S. 146	196
118	AN ACT concerning legal holidays, the maturity of negotiable instruments, creating a Saturday half holiday for banking institutions in certain cities, repealing all laws in conflict herewith, and declaring an emergency	S. 150	196
119	AN ACT fixing the time for holding court in the thirty-second judicial circuit of the State of Indiana, regulating certain matters connected therewith and repealing all laws in conflict therewith and declaring an emergency	S. 178	198
120	AN ACT authorizing judges of circuit courts in all counties wherein may be organized a circuit and superior court to transfer cases to such superior court for cause shown	S. 185	199
121	AN ACT authorizing the reduction of the capital stock of loan and trust and safe deposit companies, legalizing reductions in the capital stock of such companies heretofore made and repealing all laws in conflict therewith and declaring an emergency.....	S. 225	199
122	AN ACT providing for the election in behalf of widows who are insane and whose husbands died testate whether to take under the provisions made by law for widows in the estate of their deceased husbands or to take under the wills of such deceased husbands, and declaring an emergency	S. 289	201
123	AN ACT to regulate the speed, operation and registration of locomobiles, automobiles, motor cycles or other motor vehicles upon public highways, and providing penalties.....	S. 8	202
124	AN ACT providing for the construction of drains and sewers in counties having a city therein of not less than 59,000 nor more than 100,000 population, according to the last preceding United States census, providing a method for assessing and collecting benefits from the property holders owning lands benefited thereby, and by the division of the remainder of the cost between such county and such city, and authorizing such city to issue improvement bonds, and declaring an emergency	S. 193	205

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125	AN ACT for the printing of additional copies of the report for the years 1903-1904 of the commissioner of fisheries and game for the State of Indiana, making an appropriation therefor, and declaring an emergency	S. 352	214
126	AN ACT regulating the issuance of licenses to marry, prohibiting the issuance of such license to certain persons, prescribing the duties of the clerk of the circuit court, and providing penalties for the violations of the provisions of this act	H. 118	215
127	AN ACT authorizing the admission of widows and wives of disabled or destitute soldiers, sailors and marines of the war of the rebellion, from 1861 to 1865, the Spanish-American war and the Philippine insurrection to the Indiana state soldiers' home, and repealing all laws in conflict therewith, and declaring an emergency	S. 263	217
128	AN ACT defining the kind of securities in which the assets or capital, required of foreign insurance companies to do business in this state, shall be invested, and declaring an emergency	S. 337	218
129	AN ACT concerning municipal corporations	S. 75	219
130	AN ACT concerning acquisition, ownership, alienation by deed, devise or otherwise, and transmission of real estate by aliens, matters connected therewith, repealing all conflicting laws, and declaring an emergency	S. 194	410
131	AN ACT amending sections 3, 4, 8, 13, 15, 16, 17, 20, 23, 26, 40, 49, 56, 57, 65, 67, 82 and 105 of an act entitled "An act for the reorganization of the Indiana militia, prescribing regulations and penalties for violations thereof, providing for the election and appointment of officers, defining the rights and duties of civil and military officers, and penalties for neglect or violations thereof, providing for armories, courts-martial, councils of administration, boards of survey, military encampments, and the calling of the militia into active service, making annual appropriations for the support of the militia and other expenses, repealing all laws heretofore enacted on that subject in conflict with the provisions of this act and declaring an emergency for the immediate taking effect thereof, approved March 5th, 1895, and amending sections 3, 4, 6, 7 and 8 of an act entitled 'An act amending sections 6, 7, 10, 11, 14, 18, 19 and 32 of		

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132	AN ACT to fix and regulate the compensation of county assessors of the several counties of the state, repealing all laws in conflict therewith and declaring an emergency	H. 193	425
133	AN ACT concerning taxation, and providing for the foreclosure of liens for delinquent taxes under specified conditions	H. 232	426
134	AN ACT entitled an act in relation to notaries public and legalizing certain acts thereof, and declaring an emergency	H. 279	428
135	AN ACT concerning proceedings and appeals in criminal cases	H. 298	429
136	AN ACT concerning the improvements of public streets and boulevards located upon the bank of any river or stream in cities having a population of not less than forty-three thousand (43,000) nor more than forty-nine thousand (49,000), according to the last preceding United States census, and declaring an emergency	S. 45	430
137	AN ACT concerning junk dealers, providing for the regulation and licensing of junk dealers, providing for the issuance of license and fixing license fees, prescribing the duty of certain officers and providing penalties	S. 70	431
138	AN ACT to amend sections 5, 6 and 7 of an act entitled "An act providing for the sale of certain real estate and for the relocation of the institution for the education of the deaf and dumb; making an appropriation therefor, and declaring an emergency, approved March 9, 1903," and declaring an emergency.	S. 129	432

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139	AN ACT to amend an act entitled "An act to amend an act entitled 'An act to amend section one (1) of an act entitled "An act to amend the first section of an act for the incorporation of manufacturing and mining companies," etc., which became a law by lapse of time December 27, 1872, approved March 9, 1875, and to legalize the incorporation of certain companies organized and existing under said act,' approved March 3, 1903, and to legalize the incorporation of certain companies organized and existing under said act, and declaring an emergency."	S. 157	434
140	AN ACT concerning the publication of public notices by auditors and treasurers of counties having a population of 150,000 or more according to the last preceding United States census, repealing all laws in conflict therewith, and declaring an emergency	S. 162	436
141	AN ACT to provide for the election of school trustees in cities and incorporated towns, prescribing their terms of office and their powers and duties in relation thereto, and repealing all laws in conflict therewith	S. 166	437
142	AN ACT legalizing the acts of the Morocco cemetery association, of Morocco, Indiana, and the acts of the trustees and officers thereof, and declaring an emergency	S. 183	438
143	AN ACT fixing the per diem of the commission appointed by the governor of the State of Indiana to codify the mining laws of the State of Indiana, under act of March 12, 1901, making appropriation therefor, and declaring an emergency	S. 226	439
144	AN ACT fixing the time for holding court in the forty-first judicial circuit of the State of Indiana, consisting of Marshall and Fulton counties, and declaring an emergency, and repealing all laws in conflict therewith	S. 270	439
145	AN ACT defining delinquency in children, and providing for the punishment of any person responsible for, or in any way contributing to, the delinquency or other offenses of any child	S. 271	440
146	AN ACT legalizing the annexation of the territory to the city of East Chicago, Lake county, Indiana, and to legalize the election and the official acts of the common council and other officers of said city, and to legalize the acts of the board of county commissioners of Lake county, Indiana, incorporating said city and annexing territory to said city, and declaring an emergency	S. 277	442

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147	AN ACT to authorize cities and towns to sell and dispose of municipal water works, gas works, electric light works, street car and other lines for the conveyance of passengers and freight and all other works for the manufacture, supplying or distribution of any public utility, repealing all laws inconsistent therewith	S. 301	443
148	AN ACT entitled an act providing for the unpaid salary of Harry E. Bernetha, judge of the forty-first judicial circuit of the State of Indiana, and declaring an emergency	S. 316	445
149	AN ACT to amend section 8 of an act entitled "An act to provide for the incorporation of street railroad companies," approved June 4, 1861	S. 332	446
150	AN ACT providing for the transfer of the surplus in the sinking fund to the general fund in the state treasury, and repealing laws in conflict	S. 357	446
151	AN ACT to amend section four (4) of an act entitled "An act authorizing circuit courts to change the names of persons and corporations," approved January 21, 1852, and declaring an emergency	S. 359	447
152	AN ACT to preserve the fresh water lakes of the State of Indiana at their established level and protect them from danger of being injuriously affected or destroyed by the lowering of the water thereof and providing penalties for violation thereof and declaring an emergency	S. 361	447
153	AN ACT to repeal section 4 of an act entitled "An act concerning the office of county surveyor in counties having a population of one hundred and fifty thousand or more according to the last preceding United States census, defining the duties and fixing the salary of such county surveyor, and declaring an emergency," approved March 11, 1901, and to amend section 1 of an act entitled "An act to amend section 5 of an act entitled 'An act concerning the office of county surveyor in counties having a population of one hundred and fifty thousand or more, according to the last preceding United States census, defining the duties and fixing the salary of such county surveyor, and declaring an emergency, approved March 11, 1901, and declaring an emergency," approved March 9, 1903, and declaring an emergency	H. 254	449

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154	AN ACT prohibiting the sale of any fruit tree or fruit trees of a certain kind, variety or description and the delivery thereafter with the intent to deceive to the purchaser of a fruit tree or fruit trees of a different kind, variety or description, and providing penalties for the violation thereof, and prescribing the time within which prosecutions under this act may be commenced	H.315	450
155	AN ACT to amend section 122 of an act entitled "An act fixing the compensation and prescribing the duties of certain state and county officers, fixing certain fees to be taxed in the offices and the salaries of officers therein named, providing for certain employes in certain public offices and fixing their compensation, defining certain duties and liabilities of officers and persons therein named, providing for the distribution of certain moneys, making certain appropriations, declaring violations of the provisions of this act to be a misdemeanor and prescribing penalties therefor, providing the time when the same shall take effect as to certain officers therein named, and repealing all conflicting laws," approved March 11, 1895, acts 1895, page 319, being section 6528 Burns' revised statutes 1901	H.332	451
156	AN ACT concerning admission of foreign casualty, surety and health companies, defining the duties of the auditor of state in connection therewith, and declaring an emergency	H.426	454
157	AN ACT concerning drainage	H. 62	456
158	AN ACT concerning the purity of elections, the hiring, buying, and offering to hire or buy votes, and the selling, bartering and offering to sell votes, and prescribing penalties therefor, and repealing an act entitled "an act to procure the purity of general, special and primary elections and conventions, prescribing punishment for the violation thereof and reward for conviction of violations of the provisions thereof, and to repeal sections three (3), four (4), five (5) and six (6) of an act entitled an act concerning elections and nominating conventions, to maintain political purity and prescribing punishment for any violation thereof,' approved March 9, 1889, and 'an act entitled an act to secure the purity and freedom of the ballot and to repeal sections one (1), two (2), three (3) and five (5) of an act entitled an act to protect the ballot box, to procure fair elections, to prevent the purchase or sale of votes, and to provide means of proving such offenses, prescribing the penalty therefor,		

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159	AN ACT authorizing and providing for the establishment and organization of the Indiana village for epileptics, making appropriations therefor, defining its purposes and methods, and declaring an emergency.	S. 167	483
160	AN ACT concerning the construction of free gravel, stone or macadamized roads; providing for estimates of the same and receiving bids for the construction of the same, and declaring an emergency	S. 16	489
161	AN ACT to amend section 655 of an act entitled "An act concerning proceedings in civil cases," approved April 7th, 1881, being section 646 of the revised statutes of 1881, and declaring an emergency	S. 203	490
162	AN ACT to amend section three (3) of an act entitled "An act to amend an act entitled an act to provide for a general system of common schools, the officers thereof, and their respective powers and duties, and matters properly connected therewith, and prescribing the fees for certain officers therein named, and for the establishment and regulation of township libraries, and to repeal all laws inconsistent therewith, providing penalties therein prescribed, approved March 6, 1865, and adding supplemental sections thereto," approved March 8, 1873	H. 105	491
163	AN ACT concerning county superintendents, their qualifications, their compensation, and their assistants	H. 307	492
164	AN ACT entitled an act concerning the construction of free gravel, stone or other macadamized roads on county lines and for the payment of the cost thereof and their maintenance on county lines	H. 396	493
165	AN ACT making appropriations and fixing salaries and office hours of the state government and its institutions, making certain specific appropriations, directing the application of such appropriations, requiring accounts to be kept by the fiscal year of the state, repealing inconsistent laws, and providing for quarterly payment of the fees, and declaring an emergency	H. 431	497

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166	AN ACT prescribing the manner of construction and alteration of theaters and other auditoriums and halls for public entertainments; prescribing the powers and duties of the chief inspector of the department of inspection in relation thereto, and providing penalties for violations thereof	H. 179	517
167	AN ACT concerning highways	S. 77	521
168	AN ACT to amend section 13 of an act entitled "An act to authorize and encourage the construction of levees and dykes, and the reclamation of wet and overflowed lands by incorporated associations, and providing for the organization of such associations and prescribing their powers, and providing for the assessment of the cost of such improvement and expenses attending the same, upon the lands benefited thereby, and for the collection of such assessments, and declaring an emergency," approved March 5, 1889, and section 1 of an act entitled an act to amend sections 1, 12, 23, 24, 29 and 30 of an act entitled "An act to authorize and encourage the construction of drains and dykes, and the reclamation of wet and overflowed lands by incorporated associations, and providing for the organization of such associations and prescribing their powers, and providing for the assessment of the cost of such improvements and expenses attending the same, upon the lands benefited thereby, and for the collection of said assessments, and declaring an emergency, and approved March 5, 1889, so that said act when so amended shall authorize any county to issue bonds for such work to run not exceeding fifteen years, and at an annual interest not exceeding six per cent., and so as to include in such work any ditch, open or covered, with appropriate waste gates for letting off overflows, and to include and appropriate any work for such purpose of reclaiming such lands, which may have been made in pursuance of any other or former law, and to provide for the refunding to the county such money so advanced to construct such work, and declaring an emergency," approved March 14, 1895, and declaring an emergency	S. 276	580
169	AN ACT concerning public offenses	H. 61	584
170	AN ACT creating and defining the sixty-first judicial circuit, fixing the times of holding court in said circuit and prescribing the length of terms therein, providing for the appointment and election of judge and prosecuting attorney therein, fixing the time and manner of returning process therein, concluding trials and otherwise regulating the manner of holding court in said circuit, repealing all laws in conflict therewith, and declaring an emergency	S. 72	758

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171	A JOINT RESOLUTION to amend section twenty-one of article seven of the constitution of the State of Indiana	H.R.2	759
172	A JOINT RESOLUTION concerning a tuberculosis commission	S.R. 5	760

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